KEEP THE DRINKING AGE 21
STEVE CHAPMAN

the weekly Standard

JULY 30, 2001

$3.95

Prince Andrew of New York

America's Most Ambitious Democrat

BY STEPHEN F. HAYES

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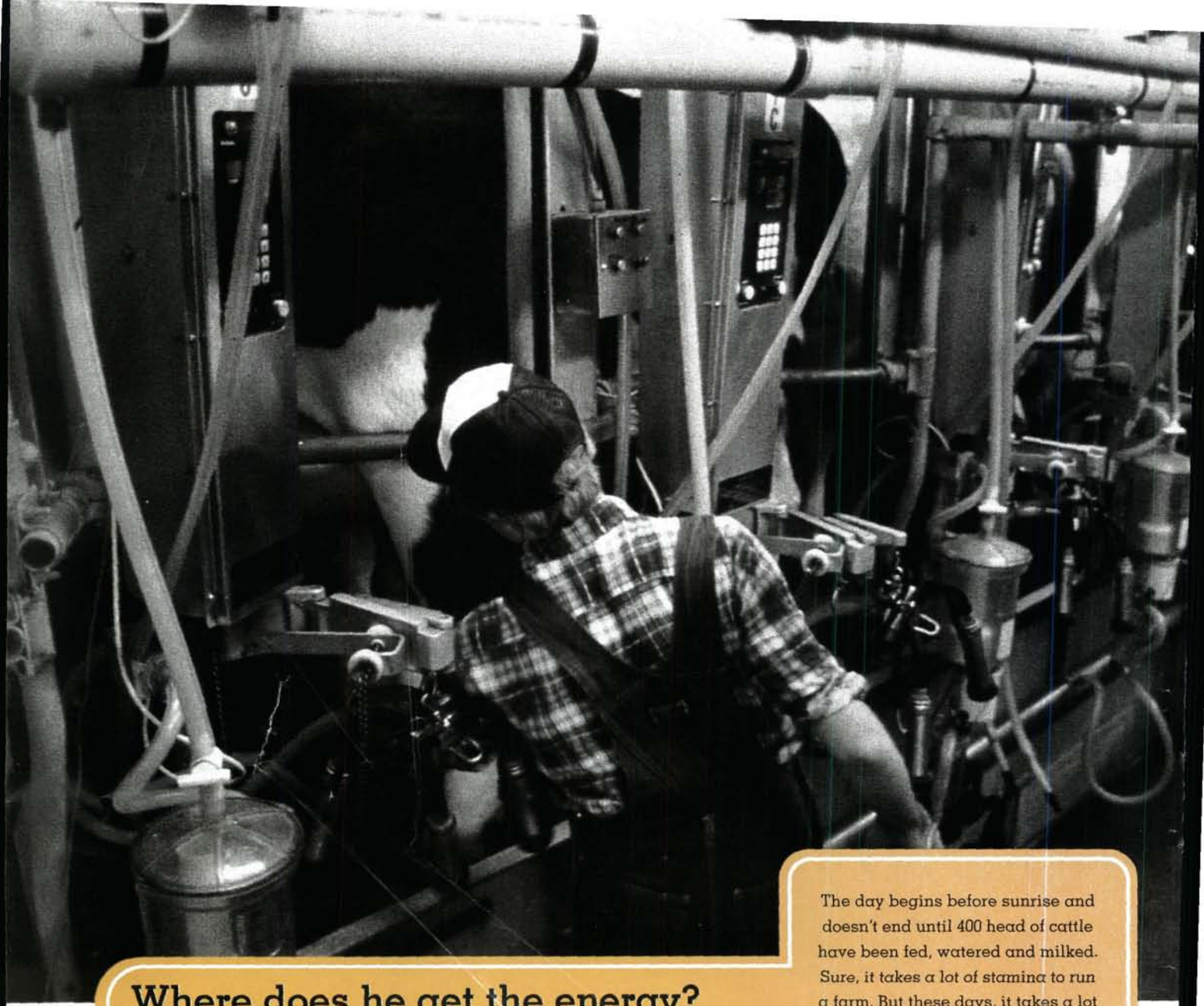

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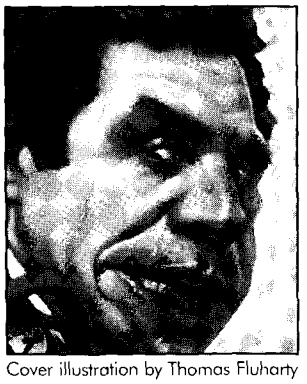

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THE WEEKLY STANDARD (ISSN 1083-3013) is published weekly (except the last week in April, the second week in July, the first week in September, and the second week in January) by News America Incorporated, 1211 Avenue of the Americas, New York, NY 10036. Periodicals postage paid at New York, NY, and additional mailing offices. Postmaster: Send address changes to THE WEEKLY STANDARD, P.O. Box 96127, Washington, DC 20077-7767. For subscription customer service in the United States, call 1-800-274-7293. For new subscription orders, please call 1-800-283-2014. Subscribers: Please send new subscription orders to THE WEEKLY STANDARD, P.O. Box 96153, Washington, DC 20090-6153; changes of address to THE WEEKLY STANDARD, P.O. Box 96127, Washington, DC 20077-7767. Please include your latest magazine mailing label. Allow 3 to 5 weeks for arrival of first copy and address changes. Yearly subscriptions, $78.00. Canadian/foreign orders require additional postage and must be paid in full prior to commencement of service. Canadian/foreign subscribers may call 1-850-682-7653 for subscription inquiries. Visa/MasterCard payment accepted. Cover price, $3.95. Back issues, $3.95 (includes postage and handling). Send manuscripts and letters to the editor to THE WEEKLY STANDARD, 1150 17th Street, N.W., Suite 505, Washington, DC 20036-4617. Unsolicited manuscripts must be accompanied by a stamped, self-addressed envelope. For a copy of THE WEEKLY STANDARD Privacy Policy, visit www.weeklystandard.com or write to Customer Service, THE WEEKLY STANDARD, 1150 17th St., NW, Suite 505, Washington, D.C. 20036. THE WEEKLY STANDARD Advertising Sales Office in Washington, DC, is 1-202-293-4900. Advertising Production: Call Ian Slatter 1-202-496-3354. Copyright 2001, News America Incorporated. All rights reserved. No material in THE WEEKLY STANDARD may be reprinted without permission of the copyright owner. THE WEEKLY STANDARD is a trademark of News America Incorporated.

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The 30 Fat Years

After three decades overseeing the premier daily outpost of conservative opinion, legendary *Wall Street Journal* editorial-page editor Robert Bartley turned over his command last week to that same page's Pulitzer Prize-winning Washington columnist, Paul Gigot. In a March 10, 1997, Casual for this magazine, David Brooks pondered the method by which Bartley produced his celebrated pages:

"Last week," wrote Brooks, "the *Journal* held a dinner party celebrating Bartley's quarter-century as editorial-page editor. Seth Lipsky held up a worn sheet of paper—the one piece of feedback he'd received during his 12 years under Bartley. It was a xerox of a short editorial Seth had written, and on it, Bartley had scrawled, with characteristic loquacity, 'Good.' Paul Gigot mentioned Bob's job-interviewing style, which is unique in that he often doesn't ask any questions.

"During the many speeches that evening, people tried to figure out how someone so reticent could have had such vast influence on the people around him and been so revered by his staff. He rarely gives orders to his subordinates, or even guidance, but the page nonetheless reflects his personality. [Deputy editorial page editor Daniel] Henninger put his finger on the nub of it: In dealing with Bartley, you don't listen, you play Luke Skywalker. You feel The Force.

"It's true. You may be away in a satellite office in Brussels or Hong Kong, working on the paper's European or Asian edition, and therefore may not have spoken to Bartley in six months, but still you feel the consistency of his views and the rhythms of his unmatched news judgment.

"The one time you do hear from Bartley is when you are in trouble, when some target of yours has threatened to sue, or when some government official or government—Singapore, China, Belgium—has gone ballistic over something you wrote. Then, Bartley comes to your support with one goal: to get you in even deeper. When someone attacks an editorial you wrote, Bartley will insist on hitting back twice as hard. If someone issues blustery libel threats, you can be sure that Bartley will make them even angrier before he's finished with them. Indeed, the Bartley mystery no one will ever explain is how someone could spend a lifetime within the Establishment and yet remain so daring in taking it on."

We wish Paul Gigot—a friend and occasional contributor to these pages—well. He has a hard act to follow. ♦

The House Rules

After Republicans retained a six-vote majority in the House of Representatives in the 1998 election, the conventional wisdom was that the place was ungovernable, hence no help to the GOP. And after Jim Jeffords split and gave the Senate to Democrats, the House was judged to be irrelevant, since the Senate would now be where the action is. Wrong on both counts, it turns out.

House Republicans, who today run the body with a seven-vote majority, are moving and shaking on two fronts with amazing success. The House has become President Bush's home turf: It's where he launches his agenda. The latest is the faith-based initiative, supposedly at death's door but approved by the House last week by a comfortable margin. Absent this, Senate majority leader Tom Daschle would be free to keep the Bush proposal off the Senate floor. Instead, the pressure's on Daschle to take up the faith-based plan in the Senate soon.

The other role for the House is as a graveyard for liberal legislation from the Senate, or at least improver of such legislation. It was no accident that campaign finance reform died in the House through speaker Denny Hastert's clever use of the rules. Besides, GOP leaders had won back enough Republicans who'd earlier favored reform to deny a majority to liberal reformers allied with senators John McCain and Russ Feingold. Next candidate for Hastertization: the patients' bill of rights. The Senate passed the liberal version. Hastert & Co. are determined to substitute a palatable scheme.

The question is what happened to the heralded alliance of moderate Republicans and Democrats who were supposed—the media said so—to run the House? It hasn't materialized. House Republicans—that is, conservative Republicans—are three for three, passing Bush's tax cut *in toto* and a milder version of faith-based, while killing campaign finance reform. Not a bad half-year's work. ♦

The Lost Art of the Filibuster

Perhaps, like THE SCRAPBOOK, you have been wondering what became of the good old-fashioned filibuster. Remember the glory days of October 1992, when Al D'Amato sang show-

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tunes and told stories for 15 hours-plus, all to save a few hundred jobs at a Smith Corona typewriter factory? And don't forget the record-setting 24 hours and 18 minutes by Strom Thurmond back in 1957 (to delay fair housing legislation). These days, senators are more fond of the virtual filibuster, in which the mere threat to debate an issue to death is often sufficient to make the filibuster unnecessary, as opponents who lack the 60 votes to achieve cloture (and end the filibuster) simply give up preemptively. But just when you thought the filibuster was dead, THE SCRAPBOOK is pleased to announce that it is alive and well and living in Missouri.

Last week, St. Louis alderman Irene Smith led a filibuster against a redistricting measure she believed would result in less representation for African Americans. But during this filibuster, she reached the limit of her stamina and asked for a restroom break. Aldermanic president James Shrewsbury said she would have to yield the floor. And by 13-11, the board voted that she could not be excused and return to continue her filibuster.

What happened next would take filibustering into uncharted waters: Smith's aides surrounded her, according to the *St. Louis Post-Dispatch*, and "held a tablecloth, sheet and quilt around her while she appeared to use a waste basket to urinate." (No streaming video jokes, please.)

This raises a couple of questions. First, we can understand the need for a tablecloth and a sheet. But a quilt? Second, how in the world did Strom Thurmond manage to go on for more than a day and not once answer nature's call? According to the senator's press secretary, prior to the filibuster, Thurmond took a steam bath and dehydrated himself severely. Oh, yes. We are relieved to say that Smith's heroic filibuster succeeded, and unlike Thurmond she did not have to carry on into the wee, wee hours of the night. ♦

Keeping in Mind the Olympic Spirit

Secretary of State Colin Powell last week told *USA Today* that the selection of Beijing as host city for the 2008 Olympics might be a force for positive change in China. "I hope they know what they got—seven years of supervision by the international community to make sure that the Olympic spirit is kept very much in mind," said Powell. As a member in good standing of the international community, THE SCRAPBOOK hereby kicks off the supervision, with a July 19 AP wire story that suggests the spirit has not yet taken hold in China:

BEIJING—The sister of a veteran labor activist has been sentenced to three years in a labor camp for helping him stage a hunger strike, a human rights group said Thursday. Li Wangling was charged with subversion and sentenced this month in Shaoyang, a city in the central province of Hunan, said the Hong Kong-based Information Center for Human Rights and Democracy. . . . [She] was detained for helping during his hunger strike and talking to foreign reporters, the Information Center said. ♦

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Casual

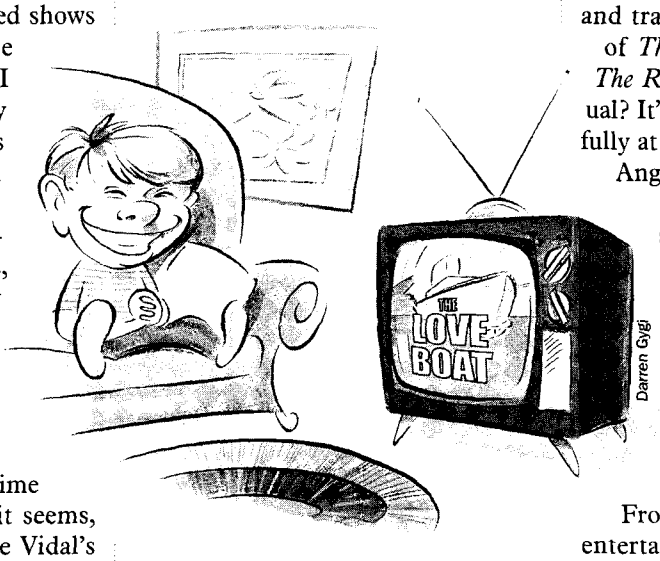
NOSTALGIE DE LA BAD

Though I grudgingly admit to doing many things that cause me some degree of embarrassment—cow-tipping, white slaving, parking in my church's first-time-visitor's space for 73 consecutive Sundays—I fly my freak flag high when disclosing that I watch lots of bad television. To some snobs, the admission that one watches bad TV is a tautology, since they believe there's no such animal as good TV. But this isn't so. There are plenty of strongly written, well-acted shows that subtly illuminate the human condition. Not that I watch any of them. I like my TV like Charlie Sheen likes his women: vulgar and slightly degraded.

I often state this with relish to my writerly friends, who, with their writerly affectations, pretend that they don't watch TV. These are the same people, mind you, who would forsake their dying mothers on Christmas Eve for five minutes of face-time on MSNBC. Most people, it seems, tend to strictly observe Gore Vidal's maxim to never miss a chance to have sex or appear on television (not to be confused with Pamela Anderson's philosophy of never missing a chance to have sex *while* appearing on television). But I know my place in the TV universe. Some of us belong on it; I belong in front of it.

I acquired my bad TV habit in the mid 1970s. It was a simpler time, one in which my world was divided into good Sleestacks and bad Sleestacks—the sibilant, lizard people who wore sequined tunics on *Land of the Lost*. Back then, television was a big party, and all our friends were invited: comedy by Paul Lynde, cameos by Charo and the Van Patten family, celebrity judging by Jaye P. Morgan.

My drug of choice became the variety show—the more embarrassing, the better. Be it Bert Convy with his Bionic Chicken sidekick, or the robotic mime stylings of Shields and Yarnell, I was addicted to all the genre's conventions: the cream-pie sight gags, the interruptions by oddly named dance troupes ("Please welcome, the Flaming Teapots!"), the omnipresent Krofft puppets. I liked the wholesome incestuousness of Donny and Marie, who despite their country/rock'n'roll differences, always managed to hold each other's hand just a little too long. I admired the go-to-hell shamelessness of the *The Brady Bunch Variety Hour*, the set of which featured a swimming pool, prompting the show to advertise "sixty minutes of songs and swimming with America's wettest family!"



Darren Gygi

Through the years, I picked bad shows, and stuck with them as they became worse shows. I stayed with *The Love Boat*—once "exciting and new"—when it became boring and old after the umpteenth Judy Landers guest shot. I stuck with boy band Menudo, who sang bilingual teenage paeans like "At the Shopping Mall" on their Saturday-morning show, when the 17-year-old lead singer would inevitably be replaced by his 12-year-old cousin Chuey back in Puerto Rico.

With the advent of MTV and reality television, I graduated from the abysmal shows of my youth (*Hee Haw Honeys*, *Manimal*, the *CBS Evening News* with Dan Rather) to watching horrible new shows like *Cribs*—where gangster rappers invite you into their homes to show you the latest in stereo equipment and ugly black-lacquered furniture. Not to boast, but I can name every type of insect that's been eaten on *Survivor*, every replacement member on *Making the Band* and *Popstars* (two documentary shows where Svengali-producers make bands full of popstars). Likewise, I can catalog every black militant, wide-eyed hick, and transsexual from all ten seasons of *The Real World*. (Didn't know *The Real World* featured a transsexual? It's just a hunch—but look carefully at Beth from Season Two in Los Angeles.)

I'm uncertain why someone such as myself, who exhibits refinement whenever picking out a Thomas Kinkade print (amazing how he uses light) or a pair of parachute pants, has such pitiable taste in television. Maybe its simplicity is a tonic for life's complexity. Maybe, as David Frost says, it "enables you to be entertained in your home by people you wouldn't have in your home"—at least not without covering the furniture.

But I had a rude epiphany recently when I jogged many of the aforementioned memories by reading Craig Nelson's *Bad TV: The Very Best of the Very Worst*. I have lost months, maybe even years, to the sinkhole of bad television. Enough is enough. Tonight, after I watch *Fear Factor*, where six contestants will try to win $50,000 by eating grasshoppers and not drowning, I'm going to turn off my television to engage in more edifying activities—like doing the *TV Guide* crossword puzzle.

MATT LABASH

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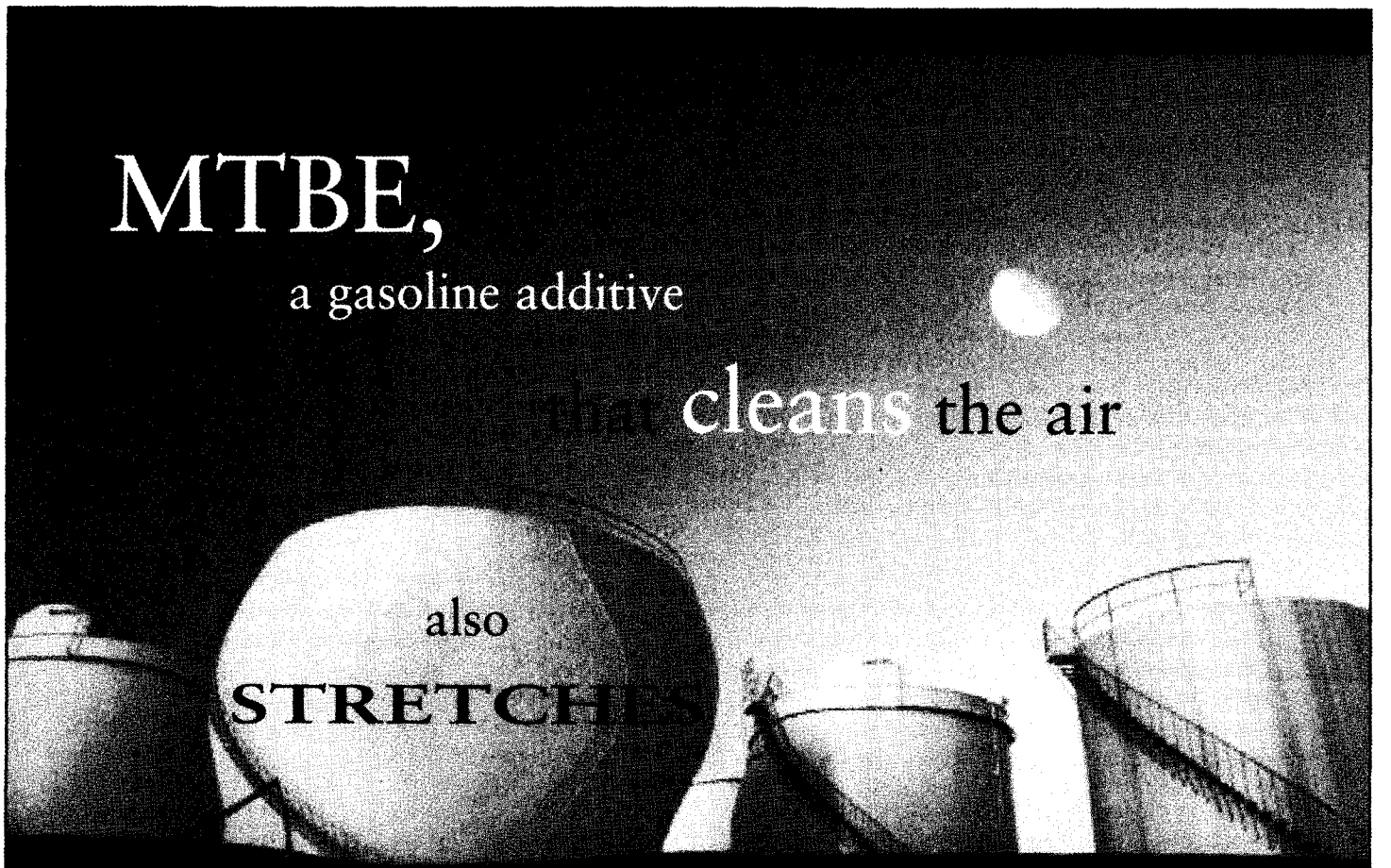

The cleaner-burning gasoline additive **Methyl Tertiary-Butyl Ether (MTBE)** is an integral component for extending the nation's gasoline supplies and helping to minimize gasoline supply shortages. With current U.S. crude oil imports exceeding 50 percent of overall demand and U.S. refineries operating at full capacity, there is no margin for error with regard to gasoline supply. Unfortunately, some special interest groups and a few members of Congress don't understand the danger. They want to eliminate MTBE and reduce our nation's overall gasoline supply.

They just don't understand the very real drawbacks to banning or phasing out MTBE:

- A shrinking gasoline pool — MTBE makes up approximately 5% of our nation's overall gasoline pool and 10% of California's gasoline pool
- A 6% decrease in gasoline supply could result in a 30-60% increase in gasoline prices over the short term, according to the Energy Information Agency
- A 6-10% gasoline shortfall by 2003, according to the California Energy Commission (CEC)
- Banning or reducing the use of MTBE is equivalent to shutting down five U.S. refineries, which would further tighten gasoline supplies and substantially impact gasoline prices for consumers

In this day and age of shrinking energy supplies, increased dependence on foreign oil and higher energy prices, is it really smart to ban or phase out a product that stretches our nation's overall gasoline supply and reduces our dependence on foreign oil imports? No, it's not.

Stop the push to ban.

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Strictly Judging

I was impressed by David Tell's editorial on the battle for the federal judiciary ("Judging Bush's Judges," July 16). I have believed for some time that if conservatives would make a plain case for strict interpretation, people would understand that this is the only sane way to view a Constitution designed to limit government.

It has come to the point that five of our Supreme Court justices can classify almost anything as law, somehow "finding" it in the text. This is anathema to representative government. It burdens the public with having to insist that Congress pass constitutional amendments to rein in whims of a judiciary gone awry.

Might there not be a causal connection between misbegotten creations of judicial arrogance like the "right" to privacy, the separation of church and state, and the "right" of the press to defame—"progressive"doctrines liberals defend as age-old principles—and the social and ethical deterioration America has experienced during the 20th century?

I applaud The Weekly Standard's call to conservative lawmakers to take this debate to the American people.

R. Scott Pennington
Louisville, KY

Out of Our Arms

Frederick Kagan ("The Next War," July 2/July 9) correctly argues that if the United States is only prepared to fight one regional war at any given moment, it invites aggressors to strike in other regions if our military is preoccupied elsewhere. Kagan undermines his argument, however, by comparing America's situation today to Britain's in the 1930s. He argues that, "had the British maintained adequate armed forces both to handle Germany and to defend the Far East, it is unlikely the Japanese would have been so quick to attack."

In absolute and relative terms, our position in the world today is incomparably stronger than Britain's in the 1930s.

Even if Britain, fully rearmed, had been led by Churchill, by the 1930s it was beyond the physical capacity of Britain to defeat either Germany or Japan, much less both simultaneously. To contain Germany, Britain needed continental allies like France and the Soviet Union. To contain Japan, Britain needed the United States. In early 1942, when it had been at war for over two years and was almost fully mobilized, Britain had no choice but to cede the Far East to Japanese aggression, for her resources were extended to the breaking point in Europe and the Middle East.

Even if British resources had not been committed to fighting Germany, the 1941-1942 disasters suffered by Royal Navy units in the Indian and Pacific Oceans would have crippled British efforts to battle Japan alone.

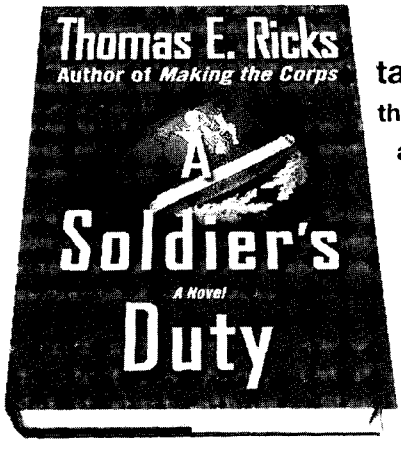
Unlike Britain in the 1930s, America today does not face an array of potentially overwhelming hostile powers. The United States has the capability to simultaneously fend off regional powers such as China, North Korea, and Iraq.

The question is whether the United States has the will to do so.

M. Miller Baker
Washington, DC

"Fast, sharp and tight: a winner."
••Kirkus Reviews

From Pulitzer Prize-winner and *Washington Post* military correspondent Thomas E. Ricks comes a thriller about the power struggles and personal battles fought inside the Pentagon.



"Skillfully plotted and tautly written, this is a thriller that will stimulate thought as well as get the adrenaline flowing."
••The Wall Street Journal

"Full of searing observations about life in uniform today. Best of all, it offers a great story..."
••National Review

RANDOM HOUSE
www.atrandom.com

Middle East Gridlocke

David Brooks's article "The Death of Compromise" (July 2/July 9) succinctly outlines the Arab view of the Middle East conflict, but casts the struggle as one between Israel's "Lockean nationalism" and Arab "blood and soil" nationalism. I prefer the distinction historian John Lukacs drew between nationalism and patriotism. Nationalism is admittedly a powerful force, one that in its German variant came close to dominating Europe. But patriotism is a defensive impulse, one less apt to be stirred into a frenzy. What Brooks witnessed in Israel was probably less a renewal of nationalism than the slow waking of long-slumbering Israeli patriotism.

To paraphrase Churchill, however: "Good intentions are no match for armed and resolute wickedness." Little evidence suggests that doves like Ben-Ami, let alone our State Department, realize this.

Gary M. Osen
Oradell, NJ

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Don't Forget!

Congress promised to pay the United Nations. In 1999 Congress passed the bi-partisan Helms-Biden legislation promising that America would pay its UN arrears if the UN met certain conditions. The United Nations kept its part of the deal, undertaking its own reforms and meeting the Helms-Biden conditions. Now, it's time to keep our promise.

Although both the House and the Senate have voted in separate bills to release the second Helms-Biden installment of $582 million, the payment is stalled. Congress must end this legislative stalemate now. Otherwise, at the opening of the UN General Assembly on September 11, the U.S. will once again be the UN's largest debtor.

Congress must act and honor our commitment to the UN — it's long overdue. Congress must release U.S. funds for peacekeeping and pay our overdue bills.

Great Nations Keep Their Word

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(That allows the Lee family to move into their first home, and start **saving money** for their firstborn.)

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the weekly Standard

Adarand, Again

Last October in St. Louis, during the closing minutes of their third and final televised debate, Al Gore and George W. Bush had a little exchange on the proper role of affirmative action in federal decision-making. A woman in the audience asked Governor Bush what his intentions were with respect to "diversity" and "inclusiveness" and so on. Bush, in response, went on about how he didn't like "quotas" very much, but did think government might appropriately "help meet a goal of ownership of small business, for example." It was this kind of "affirmative access" that he would pursue as president. And he would consequently "make you proud."

Following up, Vice President Gore patiently explained that he, not Bush, was actually the fellow committed "with all my heart" to affirmative action. Of course, when you're committed with all your heart to affirmative action, it simply means—pay attention, boys and girls—that you're prepared to "take extra steps to acknowledge the history of discrimination and injustice and prejudice and bring all people into the American dream." With that in mind, could anyone in class tell the vice president what was George W. Bush's *real* position on affirmative action? And, by extension, on the American dream, as well? That's right: "The governor is against it," Gore said, raising an eyebrow for emphasis.

This got the two men sniping back and forth for a moment, until Gore challenged his opponent firmly to commit on the issue, yea or nay: "Are you for what the Supreme Court says is a constitutional way of having affirmative action?" At which point Bush appealed to the referee—that night's rules barred the candidates from addressing each other directly—and declined to answer. "I think that speaks for itself," the vice president sneered. And that was that.

To review, then, as most of the nationwide television audience must have figured it: On one side of the controversy, favoring race-conscious government policy as a necessary means to acknowledge historical injustice, were Al Gore and the United States Supreme Court. And standing at least a few steps over on the other side was Bush, who seemed like a pretty nice man all in all, but nevertheless wasn't quite prepared to say he agreed with the Court. Which is to say, Bush probably couldn't be depended on, as president, to preserve executive branch affirmative action programs in their current form. Or, for that matter, when it came time to make bench appointments, to preserve the law of affirmative action as previously promulgated by the judiciary.

It pleased—and still pleases—both major parties to encourage such a general view of things, the better to pacify their unsuspecting ideological loyalists. But with each passing month of the new administration, if you know where to look for evidence, it becomes increasingly clear that the picture is almost perfectly false, and in almost every particular.

Much of it was plainly false even last October, in fact. There was, to begin with, Gore's astonishingly cheeky endorsement of "what the Supreme Court says is a constitutional way" for the federal government to take note of a citizen's race before deciding how nicely to treat him. It has been many, many years now since any such scheme has survived full constitutional adjudication—indeed, it's only happened once since the Supreme Court's 1989 *Croson* ruling, and that single exception was subsequently overruled. So *Croson*, a case about the Richmond, Virginia, city government's insistence that only minority-owned subcontractors should be eligible to install the toilets in its municipal jail, has remained the essential precedent. And *Croson* stands for the proposition, one would think uncontroversial, that we fought a Civil War to eradicate such racialism from our nation's laws.

In order to repair the direct damage of its own illegal discrimination against an identified class of actual victims, the *Croson* court declared, public-sector institutions might theoretically be permitted to take race-conscious action on a time-limited, "narrowly tailored" basis. But neither past nor present "societal" bias provides a generalized warrant for purportedly "benign" discrimination. Quite the contrary, absent a fact- and case-specific "compelling interest" in the remediation of its own recent misdeeds, government is positively foreclosed from employing any conceivable racial classification. Not to put too fine a point on it, affirmative action—even though it stubbornly persists in ten thousand federal and state laws across the country—is almost without exception unconstitutional.

It remains to be seen whether George W. Bush "agrees with what the Supreme Court says" here, though we will venture a nervous guess in a moment. It is beyond dispute,

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and immediately relevant to that guess, however, that such men as Al Gore very much *don't* agree that there is anything noxious to democracy about government officials, in the ordinary course of business, explicitly distinguishing between the interests of their black and white constituents. Even as he was pretending, that evening last October, to invoke Supreme Court authority for his position on affirmative action, Gore's colleagues in the Clinton administration were instead ferociously defending the federal government's "right" to impose bald-faced and vaporously justified racial qualifications on tens of billions of dollars in annual disbursements.

In particular, and in all but open defiance of *Croson*, the Clinton Justice Department was then completing its eighth straight year of litigation in support of something called the Disadvantaged Business Enterprise program at the Department of Transportation. Where protracted, high-stakes dishonesty is concerned, the Clinton administration's handling of this case, currently labeled *Adarand* v. *Mineta*, may be without parallel in American law. But no one from the Clinton administration will ever formally be called to account for it. *Adarand* will be back before the Supreme Court this fall—for the third time in six years. And it will suddenly then be George W. Bush's Transportation Department in the role of defendant. And George W. Bush's designated advocates forced to confront unanswerable questions from the justices.

In 1989, Adarand Constructors, Inc., a family-owned guardrail manufacturer, was the low-bidding subcontractor on a federal highway project in southwestern Colorado. Adarand did not win the work, however, because, then as now, federal law authorized handsome incentives to prime contractors who agree to share parts of their business with minority-owned firms. Adarand's chief executive, Randy Pech, is white. In return for a $10,000 cash bounty from the Federal Highway Administration, Mountain Gravel and Construction, the Colorado project's lead company, decided to reject his bid and go with Gonzales Construction Company instead. There was never any suggestion that the federal government had previously discriminated against Hispanic highway subcontractors in the state of Colorado. There was never any suggestion that Gonzales Construction has previously suffered discrimination of any kind. So Randy Pech, reasoning that the Disadvantaged Business Enterprise program at issue was presumptively unconstitutional under *Croson*, filed a lawsuit.

On eventual appeal to the Supreme Court in 1995, the Clinton administration argued that *Croson* had been a case only about local law and that its strictures should not apply to national programs like Transportation's. The federal government should not be required to present geographically precise, industry-by-industry findings of discrimination in its past procurement practices before it is permitted to "improve" those practices with racial classifications in the present. The goal of a "diverse" small business community should be sufficient pretext, the Justice Department offered. But a five-vote majority of the Supreme Court rejected these suggestions, and instructed the lower courts to consider *Adarand* and the Disadvantaged Business Enterprise program anew, in the same light as the Richmond toilet-bowl set-aside in *Croson*—that is, with a level of scrutiny that will "seldom provide a relevant basis for disparate treatment."

It depended on what the meaning of the word "seldom" was, apparently. Immediately following the Supreme Court's ruling, the Clinton administration set about to prove what it had earlier tacitly admitted wasn't true: that federal procurement programs *had* long "participated" in discrimination, after all, and that businesses like Gonzales Construction had, in fact, suffered for it. A Justice Department task force made public its "evidence" for this discovery—the so-called Appendix A—in late May 1996, along with a package of meaningless regulatory "reforms" it proposed various executive branch agencies should make, the better to insulate their affirmative action programs from the Constitution's irritating demands. "Seldom" meant "always," you see.

One Department of Justice lawyer prominently involved in all this scheming would later testify that Appendix A had been cobbled together in less than two weeks by a low-level paralegal. This same man further confessed that it was likely that no one in the Department had ever actually read the hundreds of thousands of pages of junk-science gibberish referenced in that document. Nevertheless, this "research," the Clinton administration now represented to the lower courts, was an "impressive" indication that the United States did, too, have a compelling constitutional interest in refusing to do business with white-owned highway guardrail factories. And largely on that basis, the 10th U.S. Circuit Court of Appeals, blithely thumbing its nose at the Supreme Court, would twice in the next four years dismiss Randy Pech's complaint.

The first time the 10th Circuit did this, in 1999, the Supreme Court was volubly irked. Without even bothering to request briefs on the merits, all nine justices, including the four original *Adarand* dissenters, approved a withering unsigned decision reversing the appeals court and ridiculing its "crucial" error. This time, we can safely assume, the high court will be grumpier still.

Which will be just one of its new reasons for again striking down the Disadvantaged Business Enterprise program. Defenders of that program will urge the justices to consider it "narrowly tailored" on the basis of recent federal regulations that require would-be beneficiaries to certify that they genuinely qualify as victimized and disadvantaged. But the underlying congressional enactment the regulations ostensibly implement enshrines a *presumption* of such disadvantage and victimization for members of more than forty different racial, ethnic, and immigrant

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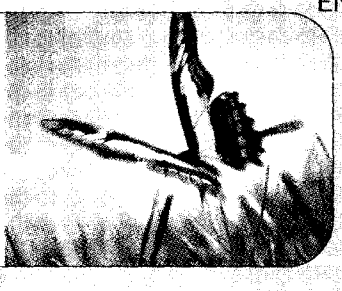
TECHNOLOGY

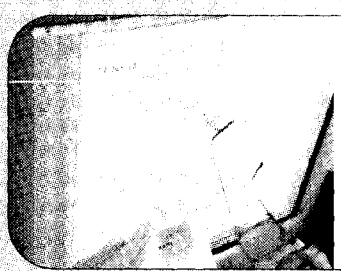
The Clean Coal Technology Program, a $5.2 billion investment by industry and the U.S. Department of Energy, is already delivering results. Two-thirds of the funding for the partnership comes from private industry, and it has produced over 20 new, successful technologies for generating cleaner electricity from coal.

ENVIRONMENT

Breakthrough technology converts coal to combustible gas, virtually eliminating impurities and producing electricity from coal with dramatically lower emissions and dramatically higher fuel-efficiency.



ECONOMY



The U.S. Department of Energy estimates investing in Clean Coal Technology can deliver $100 billion in returns through reduced emissions, reduced environmental costs, and higher efficiency from America's most reliable energy source, electricity from coal.

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or generations, electricity from coal has been America's reliable energy source. Today, it's a cleaner energy source, and the rate of emissions by electricity from coal has dropped by more than 50 percent since 1970. And, with Clean Coal Technology and coal reserves that are expected to last another 250 years, electricity from coal will power our future.

America deserves reliable energy, and CARE, a coalition dedicated to a sound energy policy, is committed to power for our future. Energy we can depend on and afford. To find out more, visit www.CAREenergy.com

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Federal Register / Vol. 66, No. 89 / Tuesday, May 8, 2001 / Proposed Rules 23227

AFFIDAVIT OF SOCIAL AND ECONOMIC DISADVANTAGE

This form must be signed and notarized for each owner upon which disadvantaged status is relied.

SOCIAL DISADVANTAGE

I hereby certify under penalty of perjury that I am a member of one of the following groups:
❒ African American ❒ Hispanic ❒ Native American ❒ Caucasian ❒ Asian Pacific ❒ Asian Indian
❒ Other Ethnic Group (*explain*) _____

And that I have held myself out as a member of that group and have acted as a member of that group.

I further certify that I am an owner of the company seeking DBE certification and that I have experienced social disadvantage due to the effects of discrimination based upon my (check all that apply)
❒ race ❒ ethnicity ❒ gender ❒ other *(explain)*

Print Name: _____ Signature _____ Date _____

groups—and regulations that demand proof of something the law has already guaranteed are always void. There's no way around the statutory text: If your family originally came from "Juvalu," the federal government believes that prejudice has damaged your career in the highway construction industry. That there's no such place as "Juvalu"—it's a typo in the U.S. Code—isn't the point. All the other "victim" classifications are real. And together they embrace more than 60 percent of the American population.

There exists not a speck of evidence that federal highway procurement officers have discriminated against more than 60 percent of the American population. There exists not a speck of evidence that federal highway procurement officers have discriminated against guardrail-manufacturing subcontractors owned by Hispanics in Colorado. *Adarand* v. *Mineta* has already been decided. And only two interesting questions remain: How broadly and explicitly will the Supreme Court wind up invalidating federal affirmative action policy as a whole? And what advice will the Bush administration offer the Court beforehand?

As a Senate subcommittee chairman in 1997, attorney general John Ashcroft held hearings on the Transportation Department Disadvantaged Business Enterprise program at issue in *Adarand*. The program was then up for reauthorization, and Ashcroft thought the pending vote was "an easy case." The vote should be "no," he said, because the program's unconstitutional features were "obvious" and "plainly impermissible" and "offensive" and "un-American." We have no reason to imagine that Ashcroft has since changed his mind, and we know for a fact that the current administration is heavy with serious men and women, lawyers and non-lawyers both, who entirely agree with him.

But it may be that the president of the United States does not. It may be that Bush meant it back in October when he hinted approval of racial preferences to "help meet a goal of ownership of small business, for example."

And that may be why John Ashcroft himself felt obliged a few months ago to tell NBC's *Meet the Press*, "I will defend the Department of Transportation's regulations" in *Adarand*. And why, on May 1, a senior Bush Transportation official felt obliged formally to reject the conclusions of a new General Accounting Office study that finds "no" reliable evidence of discrimination in federal highway procurement. And why, on May 8, Bush Transportation secretary Norman Mineta signed and made public a proposal that would require Disadvantaged Business Enterprise program applicants to submit notarized affidavits attesting, on penalty of perjury, that they have the "disadvantaged" skin color their government prefers. We reprint above the sample affidavit that was included with Mineta's Federal Register notice. Otherwise you might not believe it.

It will fall to Justice Department solicitor general Ted Olson to speak for the Bush administration at the Supreme Court's *Adarand* hearing this fall. Olson is a fine man with a fine mind who knows as well as anyone in the country that the Union army won the Civil War. And that thirty-one years later, the Supreme Court made a horrible mistake in its *Plessy* v. *Ferguson* "separate but equal" ruling. And that the Court has since spent more than a hundred years, up to and including its initial, 1995 *Adarand* ruling, correcting that error. We have no doubt that Ted Olson, personally, thinks the executive branch is constitutionally and morally obliged to follow the Supreme Court's lead. But we're not at all sure President Bush will let him say so.

Olson has until August 10 to file his brief with the Court. We're getting ready to feel sorry for him.

—David Tell, for the Editors

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Has Mexico Out-Foxed Bush?

Let's make a better deal: Give us your huddled masses . . . and your oil. BY IRWIN M. STELZER

MEXICAN PRESIDENT Vicente Fox barnstormed the United States last week, urging American businessmen to support some sort of amnesty for the three million Mexicans illegally working and living in this country. And to put pressure on his American counterpart, Fox addressed rallies of his countrymen now living in the United States to emphasize that Mexicans represent a political force here, and that those eligible to vote, particularly in the key states of Texas, Florida, New York, and California, feel solidarity with their non-voting illegal countrymen.

Fox contends that these illegals—at a Los Angeles rally a few months ago he called them "heroes"—make an important contribution to America's prosperity. Alan Greenspan agrees. The Fed chairman has acknowledged, without exactly endorsing illegal immigration, that immigrants have helped to prevent a wage explosion in the tight U.S. labor market. This has enabled the Fed to cut interest rates without worrying too much about triggering inflation.

But there is another side to that story: Immigrants fight inflation by making it more difficult for workers at the bottom of the wage scale to wrest increases from their employers. Steven Camarota, director of research at the Center for Immigration Studies (CIS), estimates that the more than ten million natives who lack a high school degree "face significant competition from Mexican immigrants," and that unskilled Mexican immigrants have reduced the wages of these native workers by about 5 percent.

Harvard immigration economist George Borjas agrees that native-born unskilled workers "have much to fear from the entry of large numbers of less-skilled immigrants" and that employers of unskilled gardeners, pool cleaners, housemaids, and hotel workers have benefited to such an extent that "immigration can be viewed as an income redistribution program"—good news for suburbanites with wide lawns and swimming pools; bad news for the mowers and pool cleaners.

And bad news for taxpayers. The CIS estimates that over his lifetime, the average adult Mexican immigrant consumes $55,200 more in social services than he pays in taxes.

Still, Fox's message is important: the free movement of labor across borders undoubtedly adds to the overall efficiency with which the economy operates. That increased efficiency, the reduction of wage pressure that allows the Fed to go for growth with lower interest rates, may well offset the net social cost of Mexican immigrants.

Besides, there isn't very much that the United States can do (or has the will to do, according to some critics of our immigration policy) to stem the tide. The Immigration and Naturalization Service reports that it apprehends about 1.5 million illegal border crossers each year. But short of draconian measures of the sort that made the Berlin Wall infamous, the inbound flood will remain substantial. We want to stop illegal immigration, in good part simply because we want to stop anything illegal. Yet, at the same time we are appalled at the increasing number of border-related deaths (about 400 last year), and establish water stations so that people slipping across the border do not die from dehydration in the Arizona desert after being abandoned by the so-called coyotes who smuggle them in.

So is there room for a deal with Mexico? Only if the president becomes a more savvy negotiator. Fox wants Bush and Congress to grant some sort of amnesty to the three million illegals. The administration, bowing to conservative opposition to a blanket amnesty, and to the fact that there is already a queue of law-abiding applicants for residence rights and citizenship, says that its policy review has the more limited objective of seeking ways of providing "legal rights and protections" for these workers, whose illegal position gives them no protection against substandard working conditions. Meanwhile, "the INS has largely abandoned its former tactic of worksite raids, and its de facto policy since 1997 has been 'once you are in, you are in,'" according to Pia Orrenius, an economist at the Federal Reserve Bank of Dallas.

Leave aside questions of whether these illegals, by voting with their feet, have shown that even the worst working conditions in the United States provide material advantages over what is available to them on their side of the border, and therefore need no "protection," especially since such government intervention would reduce the number of jobs available to them. Leave aside, too, the political question of whether there are indeed more Hispanic votes to be had by a Republican administration that extends its famed compassion to illegal immigrants.

Concentrate instead on the hypocrisy in Fox's position when he says that our border with Mexico should be seen "more as a joining line than a dividing line" and that immigration policy "should be based on

Irwin M. Stelzer is a contributing editor to THE WEEKLY STANDARD, *director of regulatory studies at the Hudson Institute, and a columnist for the* Sunday Times *(London).*

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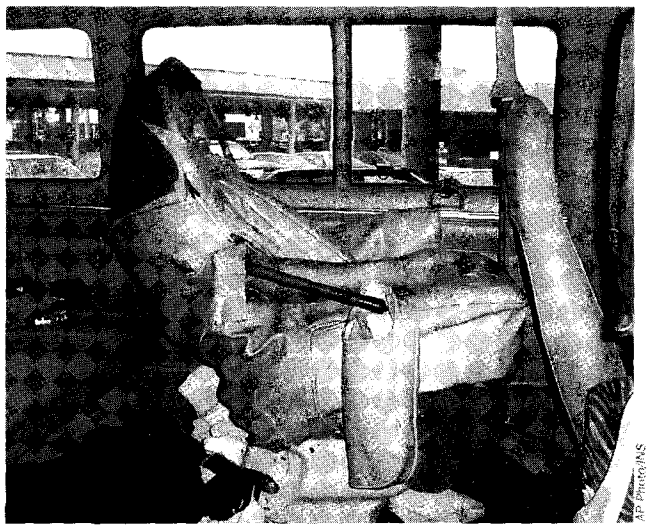
the same principles that drive trade and business investment."

The advantages to all parties of free trade are too well known to need explication here. But it is less obvious that we should do what Fox asks without demanding some reciprocal recognition of the advantages of open borders. Fox proposes to off-load his excess labor supply onto the United States, while at the same time restricting the supply of his oil to this country. Mexico, after all, is the linchpin in the OPEC oil cartel that is keeping oil prices in this country at multiples of the price that would prevail in a more competitive market.

Those prices have eased in recent weeks, but they still contain an element of monopoly profit that amounts to more than 40 percent of the tax cut that the president and his team are hoping will put our economy back on a growth path. Add in the impact of higher oil prices on profits, output, and other energy-sensitive variables, and it becomes obvious that the growth-drag created by monopoly oil prices offsets a significant portion of the growth-push that the president's tax cuts are supposed to produce. And the finger of blame points squarely at Mexico.

Although not a member of OPEC, Mexico has promised both Venezuela and Saudi Arabia, key suppliers of the U.S. market, that it will not fill any gaps created by their price-raising production cutbacks. It was that agreement, boast the Mexicans, that led to the new cohesion in the OPEC cartel, and the run-up in oil prices. Worse still, the Mexicans contend that their history and nationalistic pride preclude American investment in their nation's oil industry, despite the fact that it is a lack of investment and the woeful inefficiency of Mexico's monopoly oil producer that prevent it from increasing productive capacity. And if history and pride are insufficient justification for Mexico's policy, we have the defense offered to me by a leading Mexican official: "Oil is still cheaper than Coca-Cola."

In short, Fox wants to send us his poor and his hungry, who remit an estimated $4-$7 billion to the poorest parts of his country every year, but at the same time he will cooperate with a cartel that is stifling economic growth in America, not to mention in his own country. Before Bush strikes any deal to facilitate the free movement of labor, he should insist on a companion deal that facilitates the free movement of goods (oil from Mexico) and capital (dollars of investment in Mexico's oil resources).



A Mexican man hides in the seat of a vehicle that tried to smuggle him across the border into San Ysidro, Calif., June 7, 2001.

And he should include in any agreement provisions to offset the social costs of immigration. There is no question that freer immigration adds to economic efficiency. But neither is there any question that it poses three distinct problems: creation of an internal alien culture; rising welfare costs; and a rising non-citizen jail population.

Americans were unhappy when Mexican immigrants booed our national anthem when it was played at a soccer game in Los Angeles. And they are unhappy too—or at least should be—that many Mexican immigrants have not learned English, essential if they are to assimilate into the economic and political life of the nation. It would not be unreasonable for the administration to insist that any illegals granted regularized status have one year in which to become demonstrably competent in English, or lose their preferred status. No regularization without assimilation suggests itself as a reasonable policy position.

Nor would it be unreasonable to tell Fox that Mexico, rather than the United States, must bear any net welfare costs imposed by the legalized immigrants during their stay here, or until they become citizens. Payment in cash or oil accepted. This would do much to defuse the hostility of natives who resent the social costs incident to immigration.

Finally, there is the question of crime. We need not debate whether the incidence of criminality is higher among illegal immigrants than among the native population and legal immigrants, or decide whether regularization of the illegal status of immigrants would reduce any criminality to which that group might be prone. We need only insist that a condition of regularization be that the beneficiaries stay out of jail, and that if they don't, Mexico will not refuse to accept any that we deport.

These conditions should satisfy conservatives who believe in free trade in goods, labor, and capital, who oppose multiculturalism and bilingualism, and who resist imposing new welfare costs on hard-working Americans. Fox wants to do a deal with us, one that will shore up his popularity at home and help his poverty-ridden economy. We should agree, but only on the condition that Mexico's new devotion to free trade extend from people to oil, and that we can be insured against most of the social cost associated with immigration. Otherwise, our cowboy-boot-wearing president will have been out-Foxed by their cowboy-boot-wearing president. ♦

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Keep the Drinking Age at 21

Despite all the criticism, it's actually working well.

BY STEVE CHAPMAN

BETWEEN COLUMBINE, Eminem, and MTV, today's teenagers often come across to their elders as indecent, self-destructive, and dangerous. But Baby Boomers shouldn't be too quick to judge. In one respect, modern adolescents behave far more responsibly than their parents did at the same age. High school students today are far less likely to drink or to drink and drive.

This is partly because changing attitudes among kids. But they've also gotten some crucial help from adults—particularly a 1984 law effectively forcing every state to bar alcohol sales to anyone under the age of 21. One consequence is that a lot fewer teenagers now end their lives in alcohol-related traffic accidents. Since 1982, the number of youngsters killed in crashes involving a drunken teenage driver has plunged by 63 percent. The National Highway Traffic Safety Administration estimates that higher drinking ages have saved more than 19,000 lives since 1975—including 901 in 1999. "Drinking and driving," reports NHTSA, "is no longer the leading cause of death for teenagers."

But a lot of people count that as a piddling achievement. Since President Bush's 19-year-old daughters were cited for trying to buy alcohol at an Austin establishment a few weeks ago, a chorus has gone up in favor of lowering the drinking age. And a lot of the voices have come from the right. Conservative columnist Kathleen Parker, writing in *USA Today*, noted that Jenna Bush can legally vote, go to war, get an abortion, get married, and be prosecuted as an adult—"yet we insist that when it comes to alcohol, she conduct herself as a child." An op-ed piece in the *Wall Street Journal* assailed the current law as "irrational" and "morally confused." Even the *Economist* magazine weighed in, attributing the 21-year age floor to two malign currents in American life: "petty puritanism and a pathological obsession with safety."

One group has conspicuously dissented from the emerging new consensus: the people who would be most affected by the change. A recent poll by the survey organization ICR found that 84 percent of teenagers support keeping or raising the current drinking age. "In a given year, the majority of high school seniors drink, but only a small proportion are drinking heavily," Boston University School of Public Health scholar Ralph Hingson told the Associated Press. "On balance, they are supportive of legislation that will reduce the risks to themselves."

So why would anyone want to increase the risks to them? Simple consistency, we are told, demands a change. If 18-year-olds are adults for purposes of voting, enlisting in the military, signing contracts, and most everything else, the argument goes, they should certainly be free to go into a restaurant and order a margarita. The Bush daughters were only doing what most young people do sooner or later—trying to circumvent a law that denies them a simple and often harmless adult pleasure. Treat 18-year-olds like grown-ups, and they'll act more like grown-ups.

But this is one of those instances that bring to mind the supremely conservative observation of Justice Oliver Wendell Holmes Jr.: "A page of history is worth a volume of logic." We raised the drinking age in the 1980s not because we were eager to turn college campuses into monasteries, but because we could no longer stomach the costs incurred when many states lowered their drinking age in the 1970s. Thanks to that change, alcohol-related highway deaths rose, helping to fuel the rise of Mothers Against Drunk Driving and a broad national effort to reduce the carnage. If we abandon the 21-year drinking age, we can expect to forfeit a lot of lives, both young and old.

A uniform age of consent holds a superficial appeal, but practical considerations ought to weigh heavily in our calculations. There are good reasons to treat 18-year-olds differently for different purposes. Some responsibilities they are ready for. Others they may not be. Experience suggests that teenagers may be trusted to drive a car. But drinking and driving are another story entirely. A one-size-fits-all policy pretends that the world is a neater place than the complicated reality we know.

Another argument against foolish consistency is that the drinking age is a uniquely porous barrier. Lowering the voting age to 18 didn't cause a mass outbreak of illegal voting by 15-year-olds. Very few high school students obtain fake IDs so they can take out a mortgage or join the Navy before the law allows. But many, if not most, are fiercely impatient when it comes to alcohol. Setting the drinking age at 21 can be criticized as a highly imperfect way of keeping booze away from college-age kids, who have devised numerous ways to get it. But it does hinder them at least a little. Perhaps more important, the existing law presents even greater obstacles for younger teens. Lower the floor to 18, and millions of high school seniors would suddenly be free to buy all the Budweiser their friends can guzzle. Middle schoolers would

Steve Chapman is a columnist and editorial writer for the Chicago Tribune.

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soon find alcohol more accessible than it is today. Drinking among adolescents has fallen substantially in the last 20 years. If we want to take it upon ourselves to reverse that trend, reducing the drinking age is a sure way to do it.

Conservatives argue that in any event, this is a matter that ought to be handled through state decisions, not by federal coercion. But federalism, correctly understood, doesn't mean leaving all decisions to the states—only those decisions whose consequences are largely confined within their boundaries. If California chooses to bar construction of power generators or New York levies high taxes, its citizens will pay the price. But we don't let one state foul the air of its neighbors at will, or block goods and services coming from elsewhere. In those sorts of cases, the federal government steps in, as it should.

Like air pollution, lax liquor laws reach insidiously across borders. Back when there was no national uniformity, some states, such as Wisconsin, allowed 18-year-olds to drink, while others, such as neighboring Illinois, didn't. So taverns just north of the interstate border promoted heavily to bring in Illinoisans who were just a short trip away from beer heaven. Many of them accepted the invitation, took full advantage of Wisconsin's hospitality, and then perished trying to drive home in a fog of alcohol. The Wisconsin-Illinois line became known as the "blood border." Let states regain control over the drinking age, and that grim history will repeat itself.

An economist was once defined as someone who, upon seeing something work fine in practice, wonders if it can work in theory. A similarly sterile attitude afflicts those who want to lower the drinking age. Conservatives should be the last people to elevate blind consistency over prudent accommodations of reality. Keeping the current drinking age is contradictory, less than satisfying, and, in some sense, unfair. But it's far preferable to an approach that is logical, uniform, and wrong. ♦

The House Keeps Faith with Bush

The president's initiative passes its first big hurdle. BY JOE LOCONTE

LAST WEEK'S HOUSE PASSAGE of President Bush's faith-based initiative is a significant victory for the administration in its embattled effort to broaden religious organizations' involvement in providing social services. Two crucial pieces of the bill—protecting religious charities' freedom to hire those who share their beliefs, and allowing the voucherization of federal funds—survived intact, the former after heated debate, the latter largely unnoticed. But a third component, designed to encourage individuals' charitable giving, was gutted.

The Community Solutions Act, passed by a vote of 233 to 198, would greatly enlarge the stream of federal social-service dollars for which religious charities can compete. It would cover more than 80 federal programs worth $53 billion a year, ranging from juvenile delinquency to job training.

More important, it would change the rules by which government support is awarded. The legislation would make it unlawful for federal grantors to exclude groups from funding because of their religious character—a common complaint from charity leaders. While organizations like Lutheran Social Services and the Jewish Federation have long received federal grants, they mostly have been forced to keep their services free of religious influence. The House bill would protect their right to control the "definition, development, practice, and expression" of their religious beliefs.

The bill's preservation of faith-based groups' right to hire staff who share their religious mission proved the focus of controversy in the House. For months, liberals such as Bobby Scott, senior Democrat on the House Judiciary Committee, attacked this provision as a reversal of anti-discrimination laws. But defenders point to an exemption for religious groups under Title VII of the 1964 Civil Rights Act, along with several court rulings that have upheld and widened the protection. And it was written into the 1996 "charitable choice" law, which opened some anti-poverty funds to religious charities without requiring them to hide their religious character. "To bar a religious organization from hiring on a religious basis is to assail the very animating cause for which the organization was formed," says Carl Esbeck, who helped draft charitable choice.

"This is like mother's milk to Catholic Charities," says Sharon Daly, the agency's vice president for social policy. "I've never seen a fight like this about whether religious agencies can hire their own people. I'm appalled." Don Eberly, deputy director of the White House Office of Faith-Based and Community Initiatives, calls it "the bright line in the sand" for the president's initiative.

Virtually all of the bill's supporters say they will walk if their religious exemption disappears. The Senate may put them to the test. Majority leader Tom Daschle, who may not schedule debate before next year, told reporters, "I can't imagine that we could pass any bill that would tolerate slipping back into a level of tolerance that would be unacceptable in today's society."

How the Senate handles vouchers also bears watching. The House bill

Joe Loconte is the William E. Simon fellow in religion and a free society at the Heritage Foundation.

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would allow federal administrators to create a voucher option wherever "feasible and efficient." This means that program funds, instead of being awarded to service providers, could be given to individuals eligible for assistance in the form of certificates they would use to pay for secular or religious services of their choosing. Faith-based groups accepting vouchers would be free to integrate religion into their programs—no questions asked. There is precedent for this. Since 1990, poor families have used federally funded certificates to pay for day care at church-run facilities, with no court challenges to slow them down.

Supporters see this as the sleeping giant of the initiative. The reason: Vouchers divert decision-making power from Washington bureaucrats to individuals in need, while shifting more responsibility for the poor to states and grass-roots groups. The House bill would give federal administrators discretion to convert all or part of the $53 billion to vouchers.

The voucher option arose because of doubts about the bill's ability to negotiate church-state landmines. Some religious charities, wary of the rules that come with government grants, are willing to consider vouchers. Shannon Royce, legislative counsel at the Ethics and Religious Liberty Commission of the Southern Baptist Convention—a denomination that historically has vigorously championed church-state separation—thinks many ministries would approve vouchers. Stephen Burger, executive director of the Association of Gospel Rescue Missions, says his program directors remain suspicious of direct federal assistance. But indirect aid is another matter: "The voucher system is the answer," he says. "A properly written voucher program would get some real attention."

Liberals meanwhile accuse the Bush initiative of ushering in the government establishment of religion. They argued in committee that charities would trample the rights of program participants by demanding they join religious activities in exchange for services. Bill supporters tried to quell these fears with rules previously approved by Congress under charitable choice: Whenever direct grants are involved, individuals must be allowed to choose a secular program. And religious activities—such as Bible teaching, evangelism, and worship—must be funded privately.

But committee hardliners—including Scott, John Conyers, Barney Frank, and Jerrold Nadler—weren't satisfied. So the bill further stipulates that religious activities be "voluntary for the individuals receiving services and offered separate from the program funded." Clients who remain in faith-based programs can opt out of activities they don't like. An aide to House conservatives says they worried that too many organizations would bolt if an opt-out provision remained without a voucher plan. Under current law, organizations receiving indirect assistance—vouchers—need not segregate their secular and religious services. The provision, called "beneficiary choice," survived with virtually no Democratic opposition.

That's good news for the president, especially since little remains of another major feature of his initiative—incentives to boost charitable giving. The legislation allows tax-free contributions from individual retirement accounts, and establishes liability protection for corporate donors to charities. But Bush wanted taxpayers who don't itemize—about 70 percent of all taxpayers—to be able to deduct their charitable contributions. The White House had originally proposed that the charitable deduction equal the amount of the standard deduction—$4,300 for single returns, $7,350 for joint returns.

But the House Ways and Means Committee capped the deduction at $25 per person, $50 for joint filers—derisory sums, considering that the average non-itemizer gives $328 a year to charities. While the Bush plan would have cost $84 billion over 10 years, it was expected to boost giving by $15 billion annually. The legislation approved by the House would cost just $13.3 billion. No one expects it to cause hardly a ripple in charitable donations. ♦

Keeping Up with the Joneses

A controversial Virginia clinic injects stem cells into the governor's race. BY ERIC COHEN

THERE HAVE BEEN TWO prominent responses to the news that the Jones Institute in Virginia is creating human embryos simply to harvest their stem cells: concern and outrage.

Mark Warner, the Democratic candidate for governor in Virginia, is concerned. Asked in the governor's debate last week if he believes Virginia should ban all in-state research on embryonic stem cells, he replied: "In terms of banning all such research, no. I saw the report from the Jones Institute this week, and it troubled me that they're creating stem cells there. And I've asked for a briefing. I think we need to hear this issue out before we rush to judgment."

Mark Earley, the Republican candidate, is outraged. "You need to be more than troubled, Mark, if there is a place in Virginia that on its own, basically without any public discussion, began to create human embryos for the sole purpose of experimentation and then destruction."

Eric Cohen is a fellow at the New America Foundation.

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Neither Earley nor Warner have made embryonic stem cells a central issue in the campaign—the subject being too new, too divisive, and too misunderstood by the public. But the stem cell tide may overtake them.

The Jones Institute is part of the Eastern Virginia Medical School, a private college in Norfolk, which became famous in 1981 when Drs. Howard and Georgeanna Jones produced (if that's the word) the first "test tube baby" in the United States. The institute itself was created in 1983 and has been on the cutting edge of reproductive medicine ever since, including the development and use of what researchers call "pre-implantation genetic diagnosis." In layman's terms, that means creating embryos, checking to see which ones are healthy and which sick, and discarding the sick ones.

The revelation that the institute creates embryos for the "sole purpose of research and destruction" followed a July 2001 article, written by researchers from the Jones Institute, in *Fertility and Sterility* magazine. But according to Jane Gardner, the Jones Institute's spokeswoman, "this is nothing new." As the article explains, "In July of 1997, the Ethics Committee of the Jones Institute met to discuss research on human embryos where transfer back to the uterus was not intended." This committee "agreed that the creation of embryos for research purposes was justifiable and that it was our duty to provide humankind with the best understanding of early human development."

When I asked Gardner when the institute began creating embryos for research, she said, "I don't know exactly." "This is not a new story," she said again. "The local paper did an article on this in 1998."

Indeed, on November 14, 1998, the *Virginian-Pilot* did do an article. In it, the head of the embryonic stem cell project, Gary Hodgen, described the source of embryos as follows: "These are not people coming in because they were infertile. These research donors understand that their gametes (eggs and sperm) . . . are not going to result in the birth of a child." The fact that the *Fertility and Sterility* article—which was presented in earlier form at a conference in October 2000—happened to come out at the very height of the national fight over embryonic stem cells is, if one can believe it, mere chance.

In response to these latest reports, Governor Jim Gilmore has launched an investigation to make sure that no state money is being used for this research. (Eastern Virginia Medical College gets $14.1 million a year from the state for indigent care, tuition assistance, and medical training.) The Jones Institute has said repeatedly that all funding for the project is private, and hence legal in Virginia.

Mark Earley

AP / Wide World Photos

Which brings us to Mark Earley and the governor's race. If one were to create a pro-life all-star team from among high-level public officials around the country, Mark Earley would surely be on it. During each of his 10 years in the Virginia state senate, he gave an elegant speech on abortion and human rights to mark the anniversary of *Roe* v. *Wade*. With mixed success, he led fights in Virginia to ban partial-birth abortion and to require parental notification for minors seeking abortions. "Whether you are pro-choice or pro-life," Earley said a few years ago, "this is one of the most important civil rights issues of our time, and we're doing people a disservice by not talking about it. If we keep this issue pushed down, out of sight, it's going to explode."

And explode it has, this time over stem cells. The Jones Institute story has dropped all the big questions into Earley's lap: Should government money be used to fund embryonic stem cell research? Should Virginia allow even private research on stem cells derived from destroyed embryos? And what about the "compromise" proposal by Tennessee senator Bill Frist that would permit federal funding for research on "left-over" embryos (those created for *in vitro* fertilization but not used) while banning the creation of embryos solely for "research and destruction"? Is such a compromise at the state level tolerable?

Defenders of federal funding for embryonic stem cell research—including senators Frist, Orrin Hatch, and Gordon Smith—have used the case of the Jones Institute as a cautionary tale to support their position. As Hatch testified last week in the House: "I find the work of the [Jones] clinic extremely troubling. To me, this type of research is indicative of the problems we will continue to encounter if we don't allow federal funding with strict guidelines." In other words, if we don't fund it, we can't regulate it; and if we can't regulate it, then greater evils will follow.

Candidate Earley seems to have taken a different lesson from the Jones Institute story. "The Jones report shows where all this could be heading," he told me. "That's why it is so important. Our culture may wake up and recognize that failing to protect life at the dawning moment will create a darker night than we could ever have imagined."

But what he or President Bush or anyone can do to stop this "dark night" remains an unanswered question—and a political challenge. ♦

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"The Of Course I Can Brothers"

"You think you're another word merchant like the famous William Safire?" He asked me.

"Don't I wish I was. I'm not even in the same league." I replied. "Why ask?"

"You call Bill and Roger Clinton 'the of course I can brothers.' What you really mean to call them is another modern version of the legendary and famous, 'Corsican Brothers', Right?"

"Right," said I. "Its because it's a name you'll remember. The 'Corsican Brothers' is short for the 'of course you can brothers.' I'll tell you why."

"Why?"

"When brother Bill seduced, the young, naïve Monica Lewinsky, half-brother Roger asked his older brother if he really could do such a thing and get away with it."

Whereupon, the ex-President answered his half-brother, "Well, 'of course I can.'" I'm President, "spoken like a Corsican."

"Continue."

"The ex-President calls his seduction of the young, naïve intern 'inappropriate.' It's an innocuous word calculated to make next to nothing of disgusting and revolting behavior."

"What else?"

"Brother Bill has, by now, made of the White House, a bordello. And he seemingly gets away with it."

"What of half-brother Roger?" He asked.

"He cashes in on brother Bill and the White House. He peddles pardons to assorted felons for a price."

"So?"

"When half-brother Roger is asked if he can do things like that with impunity, he arrogantly responds, 'My brother Bill is President. Of course I can', spoken like a Corsican."

"So, it's all a play on words a la William Safire," he said to me.

"Sure, it's that all right, a play on words. But it's no play. It's much worse. It's the real world thanks to the Corsican Brothers. Roger and Bill."

"What else?"

"Plenty," I said. "How is it a majority of the American people can excuse 'the of course I can brothers', aka the 'Corsican Brothers?'"

"Go on. How?"

"Don't ask me I'm at a loss. Maybe the American people think of the Clinton brothers as real, live Corsicans, thousands of miles away on the same island where Napoleon was born."

"You mean the Clinton brothers may be afflicted with a Napoleonic complex?" He asked me.

"I wouldn't put it past them." I answered. "It's a lot like me thinking I'm in the least like the famous William Safire. I'd be kidding myself. The difference is the Clinton brothers are kidding America and getting away with it."

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Prince Andrew of New York

America's most ambitious Democrat

By Stephen F. Hayes

Albion, New York

Andrew Cuomo has been running for office for years. The official announcement of his candidacy for governor of New York finally came on January 29, 2001, just nine days after his tenure as secretary of housing and urban development ended with the close of the Clinton administration. Cuomo's friends threw a homecoming bash to honor the former cabinet member and his wife, Kerry Kennedy Cuomo.

"People have asked what am I going to do now I'm back in New York," the candidate told the crowd. "First, I'm going to get a good bagel. I'm going to get a good piece of pizza. I'm going to get a good egg roll, and I'm going to get some good ribs. And then, my friends and my family, I want you to know that I intend to run for governor of the State of New York."

But years before, his ambition was already plain. "I'd like to run for office myself someday," Cuomo mused in a 1986 *Washington Post* profile. Then 28, he had already masterminded his father Mario Cuomo's unlikely capture of the same office in 1982. Now at last he's off.

As simple politics, his campaign has several fascinating elements: a son intent on avenging his father's defeat; the fortunes of not one but two political dynasties; the omnipresent Clinton factor.

On substance, though, little will be more important than Cuomo's tenure at HUD and what it meant for New Yorkers. Cuomo wants it that way. As HUD secretary, he paid lavish attention to New York. He showered his home state—particularly the electorally important upstate region—with federal dollars, and essentially used HUD as his gubernatorial campaign headquarters.

In his final 13 months as HUD secretary, Cuomo made 46 official trips. More than half of those—25—were to New York. California, his second favorite destination, saw Cuomo 4 times in the same period.

"I did more for upstate New York from Washington than the [Pataki] administration has done from Albany," Cuomo said in February. And locals, at least in the short term, are grateful.

But New York housing officials are worried that Cuomo's self-promotion could have negative, real-dollar consequences for the upstate economy. Some of the money for HUD's $100 million Erie Canal Corridor Initiative came as so-called Section 108 loans. Through the program, small cities and towns put up future HUD allocations as collateral for present loans. If the loans go bad, the future money is lost.

"HUD has, in effect, mortgaged our future money," says Joseph Lynch, New York's top housing official, whose career spans four decades. "There are probably more [Section] 108 loan guarantees in New York than in the entire country." Another high-ranking New York housing administrator agrees. "We've got a black cloud over us for the next 18 years, all so [Cuomo] could issue press releases."

Worse news for Cuomo: A report this spring from HUD's New York-based inspector general's office rips the entire Erie Canal Corridor project and claims, "While the Initiative has produced limited successes by means of public improvement projects, most activities have been slow moving; thus, compromising the Initiative's ultimate success."

Those concerns, raised by both Cuomo critics and government watchdog types, burden Cuomo's attempt to fashion himself a New Democrat. He finds himself in the difficult position of wanting to boast about his attention to New York, but also to hide the fact that such self-interested favoritism is surely unethical.

Cuomo regularly thumps incumbent governor George Pataki as fiscally irresponsible. Democrats, Cuomo says, are business-friendly. Democrats will privatize. Democrats will cut taxes. Democrats will reduce the size of government. It's Andrew Cuomo, fiscal conservative, steward of The People's money.

Stephen F. Hayes is a staff writer at The Weekly Standard.

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Cuomo's rival for the Democratic nomination, New York State comptroller Carl McCall, is literally the steward of New York public money. McCall, who is 65 and has waited patiently for a crack at the top job, won the early support of many Democratic leaders. If nominated, he would be the first black gubernatorial nominee in state history.

But Andrew Cuomo is not deferential. "His whole persona," says one Republican observer, "is—I will overwhelm you." He is now in the process of elbowing McCall out of his way. Cuomo nearly doubled McCall's fund-raising totals over the first six months of 2001. Now, having hired the same Chicago-based firm that Hillary Clinton used so successfully to raise national money for her Senate campaign in New York, Cuomo is positioning himself to end the primary battle before it begins in earnest.

Once he does that, he can focus on Pataki, the man who denied his father a fourth term in 1994.

Fourteen months before the 2002 Democratic primary, 16 months before the election, Andrew Cuomo's campaign has rented a Winnebago to hit the road. In Olean, New York, a sleepy town in the southwestern part of the state, a crowd of about 100 anxiously awaits his arrival at the Knights of Columbus hall. Two advance men dart about nervously, one of them handing out blue and white "Andrew Cuomo" buttons. A third advance man will arrive with the Cuomo family and their two nannies. The press contact and at least two other full-time employees stay behind in the campaign's Park Avenue office.

Before the family makes its entrance, local activist Charlotte McLaughlin stops at the press table and proudly thrusts a picture under our noses. The framed, black-and-white photograph shows a young Charlotte among a group of young, awestruck "Kennedy Girls," staring up at a regal Robert F. Kennedy delivering a speech.

"I'm here because of this man, Robert F. Kennedy," she explains. "When he died, I cried for days."

The room buzzes with Democratic legend. "I was with Mario before anyone gave him a chance," says one. "I stood with Bobby when he gave a talk two blocks from here," says another.

Moments later, three little girls in matching denim dresses burst through the doors. The twins, who are 6, and their 3-year-old sister are RFK's grandchildren. They dance and frolic their way to the front of the room, conjuring up the black-and-white images of other Kennedy children, a generation earlier.

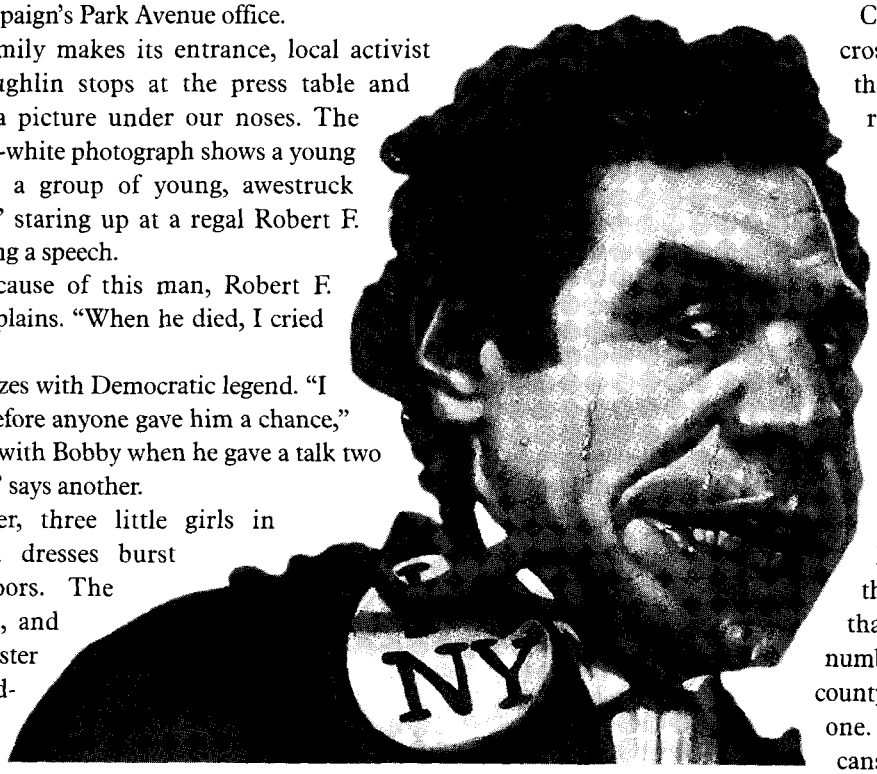

Illustration by Thomas Fluharty

Andrew and his wife glad-hand their way around the hall. Once people are seated, speakers file across the gray and white linoleum floor to the microphone to thank them for coming and to share stories of the Kennedys, the Cuomos, and campaigns past. Then, Kerry Kennedy Cuomo takes the podium.

"Thank you," she begins. "It's really wonderful to be here in Cattaraugus County. You know, my father was Bobby Kennedy and my earliest memories of being with him are of campaigning with him upstate, and also around New York state, for Senate." Her speech, a bit choppy, is received with considerable enthusiasm.

Andrew, introduced next, says of his wife: "You think she's good because it's the Kennedy gene, I think she's good because she's heard a lot of Cuomos speak."

The family references, understandably, are numerous. They work in Olean on Saturday night, but the response is more restrained in two campaign stops further upstate. At the Orleans County Democratic Picnic in Albion on Sunday, the Democratic county chairman begins by thanking Republicans.

"We all know we couldn't win anything without Republican help," says Jeanne Crane. She then acknowledges several Republican elected officials in attendance. A second party official ticks off a list of Republicans the party has decided to endorse in local races.

Curious about the cross-party mingling—this is, after all, a fund-raiser for Democrats—I approach someone who may be able to explain it. Amy Neal is wearing cut-off jeans and a T-shirt that reads: "I'm a Democrat, You're a Republican, Let's Be Friends. I'll Bug Your Elephant, You Kiss My Ass." Ms. Neal, the treasurer of the local party, tells me that Republicans outnumber Democrats in the county by more than two to one. "Without Republicans," she says, "there

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wouldn't be any Democrats. I mean, they support us, too."

Cuomo has shed his navy suit of last night in favor of more casual attire. He is dressed in a long-sleeved, blue-and-white checked Ralph Lauren shirt, Bill Blass khakis, and black loafers. (Kenneth Cole, perhaps. Cuomo's sister Maria is married to the fashion designer, who is an enthusiastic supporter.)

He gives roughly the same speech he gave in Olean. But here, in Republican country, he throws in a section on taxes. "What happened to lower taxes? That used to be the mantra of the Republicans. It's going to take a Democrat to do it," he insists. "And it's going to be done."

The Village of Albion, host of the picnic, sits astride the Erie Canal, and Cuomo's HUD was very generous to this town of 7,300. Naturally, the canal gets a prominent mention in his speech. As he reaches a crescendo about restoring New York's greatness, Cuomo bellows, "We built that Erie Canal that built the county and built this nation!"

Cuomo's speech interrupts a fund-raising auction featuring an authentic, fast-talkin' auctioneer. (Two framed Elvis pictures go for $6; a Mantis rototiller—as seen on TV—for $147.50.) As the auction resumes following the talk, I approach two local Republican officeholders.

I ask Albion mayor Ed Salvatore about his presence at the Democratic auction and he expands a bit on what Amy Neal has told me. Is he supporting Cuomo? No, Pataki. "But," he adds, "we know Andrew very well from HUD, and we're very appreciative."

For those familiar with Andrew Cuomo's tenure at HUD, his first direct attack on George Pataki may have seemed strange: He criticized the governor for using public funds to advance his political career.

Pataki, Cuomo argued this spring, used public funds to boost his political standing. He flew around New York at state expense to boost his image in preparation for his reelection bid. What's more, Cuomo charged, Pataki's appearance in public service TV ads was improper, unethical. Cuomo threatened to sue.

"You just have to turn on your TV set, you'll see George Pataki," Cuomo told a gathering of state Democrats in May. "Now, it may be the only place you'll see George Pataki is doing state advertisements. But you will see him there, and you pay to see him there. It's almost like pay-per-view. You pay your taxes and then you view Pataki on television."

Cuomo suggested Pataki reimburse the state of New York $20 million to settle the ad issue. Cuomo hasn't been as specific about repayment for Pataki's travel. "I don't believe what Pataki is doing is legal," Cuomo explained to the *New York Post*. "Where is the governor authorized to use state dollars for his campaign?"

"You cannot justify ethically or legally using taxpayer dollars to finance your political travel," Cuomo said.

So with this criticism of Pataki in mind, last week I asked Cuomo to explain the congressional report that documented his frequent trips to New York. He first disputed its findings, then explained them.

"That was incorrect. That was incorrect," he said, of the congressional report. "First of all, I represented every—the airplane is different. The airplane is, look at the specifics. You say one thing, and you do another. That's what the airplane is. You say one thing and do another. The advertising, you say one thing and do another. Vieques, you say one thing you do another. And that's troubling. I don't care what you believe, but believe something and then be consistent. And I can disagree with you, but at least stand in front of me and be honest.

"As far as my coming to New York, first of all I worked in every state," he explained. "Second of all I was from New York, and anyone who understands how government and politics works, knows when you're a cabinet secretary from a certain state, the administration tends to use you in that state. That's why you have a cabinet secretary from all different parts of the country. And when you need to communicate in that state, you use that cabinet secretary. So that's sort of a silly, silly point. When I was HUD secretary I went into a lot of houses. Yeah, but that sorta goes with the construct."

Despite Cuomo's obvious dissembling, the strategy was ingenious for two reasons. First, Pataki had effectively used similar arguments in his 1994 upset of then-governor Mario Cuomo. Payback.

But the second reason is more important. "It's a brilliant strategy, and one he's done before," says a longtime Cuomo observer. "By attacking that [misuse of public funds], you can't use that against him. It's his problem, but what are you going to say in response, 'You've done nothing but use HUD as your public sink'? So, it's the perfect attack."

It is indeed "one he's done before."

In the heat of last year's Senate race between Hillary Clinton and New York City mayor Rudy Giuliani, before Giuliani dropped out for medical reasons, Andrew Cuomo made a special trip to New York. Cuomo, ostensibly in his role as HUD secretary, marched into a late-1999 state Assembly hearing to send a message.

"We cannot allow federal funds to be politicized," he insisted, blasting the city's homeless policies under Giuliani. But Cuomo was there for one reason: to politicize federal funds.

Cuomo appeared at the hearing to justify his decision to yank from New York City the duty of distributing about 20 percent of its federal housing grants, a decision that

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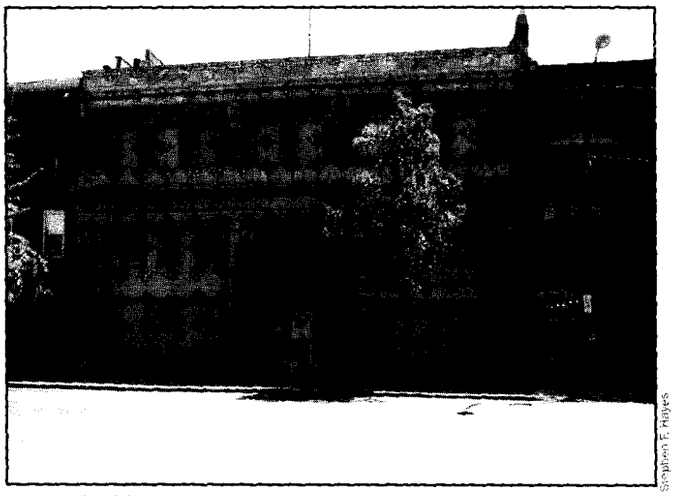
would allow him to deliver a public spanking to Giuliani and so help Mrs. Clinton, his boss's wife. (Two weeks earlier, Cuomo had lent his top New York-based HUD deputy, Bill de Blasio, to run the Clinton campaign.)

Cuomo, as he left the hearing, took time out from his official HUD duties to hold an impromptu press conference. He predicted, "Hillary Rodham Clinton is going to be the next senator from New York."

In case anyone missed the point of Cuomo's trip, his wife reiterated it that evening. "Just a few hours ago, my husband pulled up the gauntlet," a proud Kerry Kennedy Cuomo boasted to a New York Democratic party fundraiser for Hillary. Mrs. Cuomo, too, ripped Giuliani's homeless policies, and finished with a warning. "Next time, Rudy, pick on someone your own size."

On the campaign trail, Mrs. Cuomo sounds a similar theme: Andrew versus the "hostile Republican Congress."

"I remember when he went to the nomination hearings before the Senate," she explains in her standard stump speech. "And there were 16 senators in a row, and they sort of sit you in this pit, and they sit above you and look down like this, and they're all Republicans basically."



Stephen E. Hayes

"The debacle"—a $585,000 HUD renovation in Albion, N.Y.

She continues: "And the first one got up and said, 'I'm going to shut down HUD 'cause there's so much waste.' And the next one said, 'I'm shutting down HUD 'cause there's so much fraud.' The next, 'I'm shutting down HUD because there's so much abuse.' And this went on and on and on, 16 in a row! And Andrew said, 'Respectfully, sir, I think I can make a difference there, and I'm willing to try.' And he did."

Everyone understands that campaigns regularly get, um, creative with the truth, but Mrs. Cuomo's description of the hearings is pure fiction. Andrew Cuomo's confirmation hearing in January 1997 was a lovefest.

After nothing but warm comments about the nominee from the first few speakers, Connecticut Democrat Christopher Dodd jokingly proposed the committee recommend Cuomo's confirmation without further delay.

"Andrew, you ought to be careful," he continued. "With all this praise here, they're setting the bar very high for you."

California Democrat Barbara Boxer agreed. "You have everything going for you this morning, and I only hope that your tenure will be as warm and good as this confirmation hearing is."

Both parties were well represented at the hearing, with 10 speakers each, not including Cuomo himself. And though 2 Republicans alluded to previous efforts to close down HUD, nobody renewed the threat. Lauch Faircloth of North Carolina, the committee's harshest HUD critic, closed his remarks on this note: "A number of people that I admire recommend you very highly. They are strong supporters, and you certainly have an impressive record and an impressive group of friends, and it's nice to see you again today and I look forward to the hearing."

Looking back at certain aspects of Cuomo's tenure, though, could do much to resurrect the long-forgotten crusade to close down HUD.

Cuomo's trips to New York promoting the Erie Canal Corridor Initiative took him to a struggling region. Despite the strong economy of the '90s, this swath from Buffalo to Albany has stagnated. Cuomo argued that a major infusion of government cash could kick start a recovery. Others weren't so sure.

Mark McGuire reported HUD's initiative to revitalize the Erie Canal area in the Albany *Times Union* on November 21, 1996. His lede was skeptical: "Its value as a commercial thoroughfare has long since disappeared; sections have been plowed under, paved over or simply forgotten. But federal officials are willing to wager more than $100 million that the Erie Canal still has value."

Critics point to the project and the secretary's trips promoting it as naked attempts to win Cuomo favorable publicity in his once and future state.

Joseph Lynch, commissioner of the New York State Division of Housing and Community Renewal, says Cuomo used the visits to stage high-profile announcements in areas key to his gubernatorial bid. "The announcements were certainly of a political nature," said Lynch. "They were highly controlled to favor the officials in his party."

Lynch's office was nearly always surprised by Cuomo's visits. "Usually, when he'd come in for the announcements

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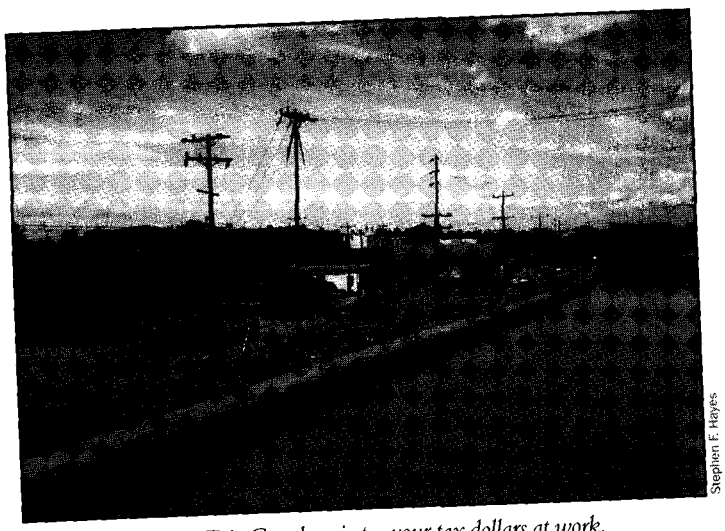
of funding grants, we were not contacted in any way prior [to the public announcement]," he said. But such failure to notify the state is a minor slight in the context of Cuomo's years-long battle with New York for control of the funds themselves. Cuomo had fought to prevent the state from controlling its Community Development Block Grants, as 48 states did then. All the while, HUD's website declared that local communities are better able to spend block grants than are federal bureaucrats.

HUD's website also falsely claims: "New York and Hawaii chose not to administer the State CDBG program." While this was the case when Mario Cuomo was governor, New York under Governor Pataki made repeated attempts to win control of the money. Finally, in late 1999, congressional Republicans added a provision to the HUD budget giving control to New York.

But by that time, some five years after Cuomo first joined HUD as an assistant secretary and two years after he took over as secretary, he was already making regular trips to New York to tout the HUD money. Rather than deny that upstate New York received disproportionate attention from HUD, Cuomo is campaigning on it.



Stephen F. Hayes

HUD's Erie Canal project—your tax dollars at work.

"Andrew Cuomo had jobs for New Yorkers on his mind when he developed programs and leveraged billions of dollars in investment for the New York economy, while at HUD," proclaims the *Cuomo News*, distributed at campaign stops. His website reads, "As HUD Assistant Secretary, and then as Secretary, Cuomo began and implemented the Canal Corridor Initiative that resulted in billions of dollars in public and private investment and created 27,000 jobs."

An internal HUD audit released on March 30, 2001, however, paints a dismal picture of the Erie Canal project. It reports that HUD has been slow in distributing funds, that HUD used "unusual financing methods," and that the project has fallen short of its stated objectives. The inspectors conclude with a stunning recommendation: Without significant improvements in the execution and monitoring of the project, HUD should rescind large portions of the remaining funding.

But some of the money has been spent. As the New York *Daily News*'s Ross Buettner reported in June, the town of Holley spent $1 million on, among other things, the "Andrew Cuomo Canalway Trail." And in Albion, the site of the Orleans County Democratic picnic, one local suggested I check out a project he called "the debacle."

The old bank building is about 50 steps from the Erie Canal. It sits abandoned, falling apart. A building permit, dated 1999, is posted on the front door. The inside is empty, except for some garbage and a sawhorse. The back windows are boarded up, and "No Trespassing" signs are posted on the walls. This is *after* the village spent $585,000 in HUD money to turn it into a gathering place for tourists traveling the canal, with a museum, public showers, and a youth hostel. This didn't happen.

On my second trip to the building, I run into Mayor Salvatore, who, I've been told, is steamed about the condition of the bank and the "wasted money."

I ask him what happened. The village applied for the HUD funding, he says, and enlisted the county Chamber of Commerce to administer the grant. Though it's not apparent from the outside, he tells me, the walls have been fortified and the roof reinforced. Salvatore, a sincere, salt-of-the-earth type, goes to great lengths to avoid assigning blame. And he points to a number of reasons for the current state of the building, including New York's prevailing wage law, which dramatically inflated labor costs. Still, he contends, had the village managed the job, "we think the building could be completed right now. Completely completed."

Salvatore says the village provided updates to HUD when asked. "We gave them the progress reports on it and apparently they were happy with it."

Around the corner, the village has used $65,000 in HUD money to carve out a little park along the waterway. Again, the town had high hopes—plans to build a recreation area for both tourists and locals. On this warm summer day, while the new park sits empty, a big band plays up the street on the grounds of the courthouse. This is exactly the kind of event that was planned for the canal-side park. Explains a resident, "They won't even use the gazebo because it's so wimpy."

It can't help that the park backs up to two dilapidated homes, each with an abandoned car parked before it. A

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cement strip between the houses features a row of discarded major appliances.

In total, the Village of Albion received nearly $2 million in HUD grants and loans, almost $300 per resident.

Andrew Cuomo, of course, can't be faulted for every ineffective HUD grant. But such fiascoes at least raise questions about his campaign boasts. Cuomo made the case for himself shortly before he left office, in the November/December 2000 issue of the *New Democrat* magazine. The article, "From Worst to First," co-written with HUD's former chief of staff John Cowan, purports to describe the "radical reinvention" of HUD since Cuomo took over in 1997. "Almost four years later, we have restored HUD's credibility," the authors claim. "If you can turn around HUD, you can turn around any troubled government agency."

Stan Czerwinski, a HUD expert at the federal government's nonpartisan General Accounting Office, doesn't go that far, but he gives Cuomo some credit. "I have not seen a [HUD] secretary pay attention to the management area as Cuomo did," Czerwinski says. "His major accomplishment was the reorganization. It's not just reorganization for reorganization's sake, either. It's reorganization to improve accountability."

Cuomo also claims that on his watch, HUD was taken off the "high risk" list that GAO keeps to monitor poorly performing federal agencies. But critics call the claim misleading, since GAO changed its parameters for assessing risks. I ask Czerwinski who is right.

"It's probably somewhere in between," he responds, explaining that, instead of assessing the agency overall, GAO decided to look at it program by program. "Three-quarters of the budget is probably still high-risk."

And what of Cuomo's claims that he has largely eliminated "waste, fraud and abuse" at HUD? Czerwinski lets out a hearty laugh. "I wish I could say that he had done that, although I'd be out of a job," he says, with another chuckle. "We seem to have plenty to look at still."

On his way out, Cuomo ordered HUD to print several brochures detailing his effort to cut waste, among other things. Republicans in Congress were furious at the blatant self-promotion. One 150-page booklet, "A Vision for Change," purports to tell "the story of HUD's transformation." "HUD is a model for others to follow and take comfort in," Cuomo writes in the introduction. "Government can work. And government is our collective vehicle for positive change. Government is still our best hope. If government can work, we can make this a better world. And isn't that what it's all about anyway?"

Government certainly worked for Cuomo in this instance. The brochure, with its own CD-ROM, cost nearly $700,000. Some of its language, and many of its 21 photos of the secretary, also appear on the campaign website.

Click on the site's "Photo Gallery" and you'll come to the heading "Exposing Injustice Is The First Step." This echoes a second brochure. Entitled "Exposing Injustice," it features a burning cross on the cover, and on the inside cover. The pages are filled with images of the KKK and other hate groups.

"Hatred," goes the text. "It flaunts many rationales and stalks many targets. When a house of worship—whether it is a church, a synagogue, or another sacred place—becomes a target of hate, it batters the very center of a community's identity. And such hatred, unfortunately, persists, even into the 21st Century." The brochure cost taxpayers nearly $200,000.

This last-minute flurry of literature highlights the remarkable scope of HUD's work under Cuomo: gun control, AIDS, crime, the environment, education, "fighting cyberhate," foreign policy, and health care. Is there anything HUD doesn't do?

Such expenditures and such arguments—government is our best hope—will do little to enhance the New Democrat image Cuomo is cultivating for his campaign. "I believe that's the essence of New Democrats," he says of restoring faith in government. "Make it work, make it smaller, market-based principles, privatize what you can."

Both Cuomo and his wife repeatedly tout his cost-saving measures at HUD, yet they seem to want it both ways. As Kerry Kennedy Cuomo stresses, her husband "went back to that hostile Republican Congress and he got record funding every year, for four years."

Cuomo entered the Democratic primary as something of an underdog, an image his aides were happy to cultivate. State comptroller Carl McCall was widely thought to be the Democratic nominee-in-waiting. An attractive, well-regarded public servant, McCall had already done well statewide and, thus, had secured much early support from the state's Democratic apparatus.

But Cuomo has his own strengths. His initial contributor list released last week reads in places like a Who's Who of Clinton top administration officials and scandal attorneys: Don Baer, Carol Browner, Lisa Caputo, Greg Craig, Lanny Davis, Dan Glickman, Mickey Kantor, David Kendall, Joel Klein, Abbe Lowell, Federico Peña, John Podesta, Bruce Reed, Richard Riley, Gene Sperling.

The underdog no longer, Cuomo has outpolled McCall regularly throughout the spring and summer. The latest survey shows him up 13 points. Name identification, needless to say, is no problem. And with eight years' practice at misusing a cabinet agency to further his personal political ambitions, Cuomo at least has mastered the permanent campaign. ♦

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A Cowering Superpower

It's time to fight back against terrorism.

By Reuel Marc Gerecht

In December 1999, the Clinton administration issued a worldwide terrorist alert to Americans overseas advising them to avoid crowded millennial celebrations. Bomb-toting Islamic militants under the banner of the Saudi terrorist Usama bin Laden had declared war, so Americans were to stay discreetly indoors while other Westerners partied. In Israel and Jordan, American Christians were strongly advised to avoid any public manifestation of their faith. Vexed by the growing number, geographical range, and fearfulness of Washington's warnings, one senior Foreign Service officer declared the millennial alarm "the chicken-little PR finale of America's cover-your-ass foreign policy."

Unfortunately, this hard-nosed diplomat was wrong. The policy he deplored was not about to end. The Bush administration has continued and actually surpassed its predecessor's display of timidity in the Middle East. The possibility of terrorist attacks recently prompted the Pentagon to withdraw U.S. Marines from military exercises in Jordan and hastily move ships anchored in Bahrain, the home base of the U.S. Navy in the Persian Gulf. Likewise, pistol-packing FBI officials investigating the October 2000 attack on the USS *Cole* in Aden, Yemen, decided to scoot—against the counsel of the State Department and the U.S. embassy in San'a—when they thought a terrorist attack might be imminent.

Which prompts the question: Are we a great power or not? If we are, then what in the world are we doing running from men whose mission in life it is to make us flee? If Marines and men-of-war cannot hold their own against the specter of a Saudi terrorist, how will our friends, let alone our enemies, in the macho Middle East measure us against real heavyweights like Saddam Hussein or the clerics of Iran?

Usama bin Laden and his terrorist organization, Al Qaeda, scored an impressive victory by nearly sinking the *Cole*, yet Washington still has not responded. Our fear is pure oxygen to Islamic militants. Every alert, particularly when it panics U.S. military and diplomatic personnel, sends an adrenaline rush into the central nervous system of men truly convinced that with God's help and the right explosives they can crack the will of the infidels who are, in their eyes, destroying the one true faith.

Secretary of defense Donald Rumsfeld's decision to yank the Marines out of Jordan is, when viewed from the mud-brick and cinder-block ghettos of the Middle East, an extraordinary triumph, further proof that the martyrs of the *Cole* attack died gloriously. America's military leaders may think that they're being prudent with our soldiers; the average man in the streets of Amman certainly knows better. Terrorism is war by unconventional means. Its ultimate objective is the psychological debilitation of the enemy through fear. In the fight against terrorism, the U.S. military's ever-more exclusive focus on "force protection" diminishes the awe in which America is held abroad, the ultimate guarantor of the safety of U.S. civilians and soldiers, especially in lands where hostility to the West rests near the surface.

Martyrdom has a long and complex history in the Muslim world. It began with God's promise of paradise to the seventh-century warriors who died expanding the first Islamic state. Over the centuries, rules and understandings evolved about the pivotal difference between combatants and civilians, but these have evaporated in the fundamentalists' radical modernity, which divides the world cleanly and brutally between good and evil. If we want to play hardball with Islamic militants—and the Bush administration isn't spending billions of dollars on counterterrorism to be nice—we need to pay more attention to the history and metaphysics of Islamic extremism. In other words, we need to take bin Laden's men apart psychologically. Cutting off the flow of oxygen to the Muslim world's anti-American radicals isn't an impossible task, so long as we patiently hold our ground.

Usama bin Laden and his men are, or at least aspire to be, contemporary "Assassins," the medieval founding fathers of modern political terrorism, who from their mountain redoubts in Iran and Syria first showed the possibilities of purposeful, disci-

Reuel Marc Gerecht, a former Middle East specialist in the Central Intelligence Agency, directs the Middle East Initiative at the Project for the New American Century. He is the author, under the pseudonym Edward Shirley, of Know Thine Enemy: A Spy's Journey into Revolutionary Iran.

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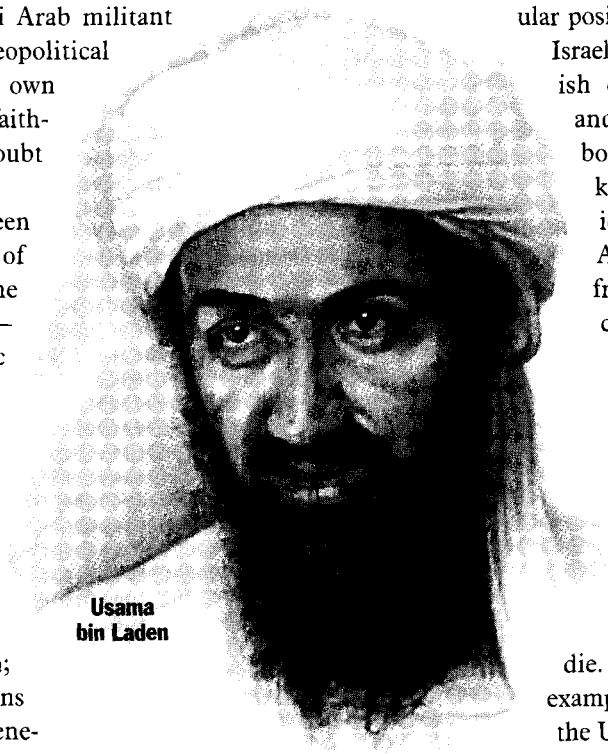
plined terrorism. For a time, great sultanates and kingdoms lived in profound fear of men who gladly sacrificed themselves to kill their enemies. The word "assassin" entered Western languages because the originality and shock of the Assassins' assaults were sufficient to embed the word permanently into the consciousness of the region's Muslims and Christians. The allure of the Assassins' propaganda, which depicted acts of violence as acts of divine love and anger, tapped into strong currents within Islam that see God's justice continuously betrayed by the *'ulu al-amr*, "the men who hold the reins." Bin Laden might not like being paired religiously with the "Old Man of the Mountain," the mysterious Shi'ite overlord of the Assassins, but the Sunni Arab militant wouldn't mind at all the geopolitical comparison, which, given his own mountain hideaway and his faithful kamikazes, has no doubt already occurred to him.

Though there have been times when large numbers of young Muslim men felt the thrill of a charismatic calling—the early years of Iran's Islamic revolution is the most recent case—the contemporary Sunni Arab world, where bin Laden draws most of his strength, hasn't experienced a similarly infectious wave. One can find many angry young men in Yemen, Egypt, Saudi Arabia, Algeria, or Gaza; few want to vent their emotions against the age-old Western enemy by vaporizing themselves in a truck or skiff. Jihad, the moral and spiritual obligation of a Muslim to wage war to protect (and, in Islam's ascendant days, expand) the faith, is no longer understood by most Muslims as denoting anything more than an individual's duty to survey his soul.



Usama bin Laden

Drawing in good new recruits to Al Qaeda's cause thus isn't, as many Westerners might assume, an easy task. In Afghanistan, a broken, barren country far from the crossroads of the Muslim world, it probably seems daunting, which is one reason why so many of bin Laden's foot soldiers are hapless, ill-educated misfits who get themselves arrested when they stray too far from their native stamping grounds in the disorganized, listless Third World.

Islamic militants, like everybody else, must have hope. They, like everybody else, believe in winning. Israel's most determined enemies—Lebanon's Hezbollah, Iran's mollahs, the Palestinian fundamentalists in Hamas and Islamic Jihad, and Yasser Arafat's protégés in his security and intelligence services—constantly underscore Israel's decision to withdraw unilaterally from southern Lebanon in their clarion calls for more martyrs. This Israeli action, widely applauded in the West as strategically astute and morally estimable, was seen (correctly) in the Middle East as an astonishing retreat by a once seemingly unbeatable Western power. Israeli weakness, not Israeli "intransigence," is what heats the militant's death-wish dreams red-hot.

We need to remember that Al Qaeda, like its allied fundamentalist organizations, has to survive on little regular positive feedback. For Hamas, killing Israelis is easy since the Arab and Jewish communities are geographically and economically intertwined. The body count on the nightly news keeps the spirits up. For anti-American holy warriors based in Afghanistan and the northwest frontier of Pakistan, daily life in comparison is tough. Radios and satellite phones are the only constant links with the outside world. Time passes very slowly. The two years between the bombings of the U.S. embassies in Africa in August 1998 and the *Cole* attack could seem like an eternity to young men who burn to die. When failures supervene—for example, the botched suicide attack on the USS *The Sullivans* in Aden in January 2000—it becomes that much harder to sustain spirit and momentum.

America is, as Muslim militants quite frankly admit, an awesome foe. The allure and mystique of America in the Middle East are nearly impossible to overstate: It's Goliath, Thomas Jefferson, Wall Street, and Madonna rolled together in a cacophony of sound and color that relentlessly fascinates and repels. In the eyes of Islamic fundamentalists, we are worse than the Mongols, who laid low the Muslim heartland and nearly annihilated the faith. As fundamentalists regularly complain, most Muslims are easygoing backsliders, willing victims of Western ways. Even the Saudi royal family—perhaps the folks bin Laden detests the most—who are supposed to maintain the rigorous, funless, Hanbali school of Sunni Islam, have become woefully dependent on the West, in particular the United States.

Illustration by Kevin Chadwick

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The Afghan civil war also probably complicates bin Laden's life. His disparate collection of holy warriors fight alongside the fundamentalist Taliban, against Ahmad Shah Massoud's Northern Alliance. This gives Al Qaeda's guerrillas some combat experience and esprit de corps. Though the main tie between bin Laden and Taliban leader Mullah Omar is spiritual, the war allows the Saudi militant to further secure his exile home by contributing men and materiel to the Taliban campaigns and the Pakistani-approved camps where Kashmiri separatists are sometimes trained.

However, this war *really* isn't fun: ambushes, minefields, artillery barrages, and trench warfare through mountainous countryside increasingly define Afghanistan's strife. The offer of "terrorist training" in Afghanistan, a country where "good" Muslim peasants are fighting "bad" Muslim peasants, isn't a recruitment pitch with lasting appeal for young Arab men who really just want to kill Americans.

For bin Laden's "sleepers"—agents already outside of Afghanistan awaiting the right moment to strike an American target—the situation is probably little better. While terrorists who've implanted themselves into the local environment can obviously be lethally effective (both the embassy attacks in Africa and the operations against *The Sullivans* and the *Cole* in Yemen relied on such people), few men in bin Laden's network are likely to have the fortitude, talent, and discretion to hold themselves in position long, their death-wish intact. Like isolated foreign espionage agents in dangerous areas, they probably need regular spiritual reinforcement and monitoring, perhaps more than their more numerous brethren in Afghanistan, who can counter isolation and ennui through open fraternity.

If these are the terrorists we're up against, what would a successful American counterterrorist policy look like? Obviously, it should play up our strengths and relentlessly play upon our enemy's anxieties and fears.

Bloodied, the crew of the wounded *Cole* did better. When their ship limped out of Aden's mountain-ringed harbor, the sailors played over the loudspeakers hard rock graphically describing what they wanted to do to the terrorists, if not the denizens of Aden. Would that the Clinton White House and the Navy's senior brass had matched the crew's insight into the Middle East's power politics and immediately dispatched other warships to Yemen to demonstrate symbolically the indefatigability of American power.

Once upon a time, the U.S. Navy reacted more astutely to tragedy. After the kamikaze truck-bomb assault on the U.S. Marine barracks in Beirut in 1983, the Navy's planners correctly anticipated kamikaze boat-bombers. The Navy experimented with weaponry and discovered that a .50 caliber round fired into the engine block of a small boat will stop forward momentum quite quickly. Such weaponry on the *Cole*, combined with the shoot-to-kill orders that are standard operating procedure for U.S. diplomatic security officers who determine that a lethal threat exists, would have likely saved the ship.

It's hard to believe that the Navy, which enjoys a relatively isolated and protected preserve for its vessels in Bahrain, couldn't have adopted similar tactics to protect its ships and men. We ought not make our enemies larger than they are: Bin Laden's holy warriors aren't remotely in a class with our SEAL teams, the elite commando strike units of the U.S. Navy which tirelessly train to disable warships in protected harbors. If bin Laden wants to triumph over us again, we should at least make his men do something more stressful than converse menacingly over intercepted telephones—which apparently was enough to provoke the Pentagon's flight from Jordan and Bahrain.

Most American diplomats and intelligence officers unquestionably know there is no efficacy in a bull-horned terrorist warning: It's quiet, bare-knuckled, local police work, not worldwide bulletins on CNN, that saves lives. Yet as another senior Foreign Service officer remarked, "There is no percentage in standing against the tide." Informing American citizens discreetly that a specific and credible threat exists in a certain time and place may have some value (informing terrorists that we are privy to their plans may well incline them to switch targets). But advising Americans that a country the size of Turkey, which always seems to be in some state of alert, may have an anti-American terrorist plotting within its borders is just silly. In this risk-averse quagmire, America's martial virtues and pride inevitably get lost.

Going in the opposite direction, other foreign-affairs circles pooh-pooh the terrorist threat from the Middle East, pointing out that more Americans kill themselves each year flying kites than die at the hands of holy warriors. Compared with those of the 1970s and 80s—the halcyon days of the Palestine Liberation Organization, Hezbollah, and the intelligence ministries of Syria, Libya, and clerical Iran—today's death tolls and sense of siege really aren't so bad. The issue of terrorism has been hijacked, so these circles often assert, by the 24-hour media maw and intelligence and security bureaucracies eager to encourage Congress's multi-billion-dollar counterterrorist budgets.

This critique is statistically correct and bureaucratically astute, but otherwise wrong. Today's radical Islamic terrorism matters because it helps define the way the United States is perceived in the Middle East and beyond. Only 17 sailors died on the *Cole*, but symbolically it was a stunning

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achievement for a jihadist fraternity that proved it could strike a warship, the historic instrument of Western power. Anyone who has been in the coffeehouses and bazaars of the Middle East since the *Cole* attack knows how ordinary Muslims, who generally don't countenance bin Laden's killing, nevertheless are in awe of him. A good tactician when it comes to Muslim emotions, bin Laden has played well the clash of civilizations.

These are bad days for America in the Middle East. Ali Khamenei, Iran's clerical overlord, isn't alone in seeing the United States on the defensive throughout the region. American policy toward the Israeli-Arab confrontation—keep trading Israeli-held land for the promise of Arab peace—is naive. Yet the the Israeli Left adopted this policy and kicked it into overdrive, and now the inevitable dénouement is at hand: a real war between the Israelis and Palestinians. Seemingly endless Israeli concessions, always applauded by the Clinton administration, have undermined America's standing in the Middle East.

The Bush administration, led by an obviously and understandably exasperated Colin Powell, has compounded the problem by endorsing the Mitchell Report, which puts forth the odd, very secular notion that Israeli settlements in the West Bank and Gaza, comprising less than 2 percent of the land, have provoked Palestinian young men to blow themselves to bits. The White House and Foggy Bottom are desperate to "stop the cycle of violence." But only violence—Israeli violence, if prime minister Ariel Sharon still has the stamina and insight at last to unleash it—may recoup the damage that the Labor party, Bill Clinton, and the Near East Bureau of the State Department have done to America's standing in the region.

Farther east, the situation is even worse. From the spring of 1996, the Clinton administration's Iraq policy was in meltdown; under the Bush administration, it has completely liquefied. The administration's retargeted "smart sanctions" are clearly a huge retreat, which the Russians, we can only pray, have turned into a permanent defeat with their threatened veto in the Security Council. All we need is to have two of our principal allies in the region, Turkey and Jordan, further enmeshed in an America-ordained, U.N.-"enforced" sanctions regime that pivots, when all the diplomatic varnish is off, on bribery. Face to face in the Middle East, *rishwa* is often the only expeditious route for virtue to triumph over villainy. But bribery mediated by the United Nations would be a strategic cross-cultural mess. With "smart sanctions" in place, not only would Saddam continue his "illegal" cross-border weapons-related commerce—the allure of Iraqi oil money is just too great—but we would have Turkey and Jordan adamantly seeking financial redress for their efforts to staunch the unstoppable trade. We would again be asking others—in the case of Jordan, a weak kingdom always inclined to appease Saddam Hussein—to bear the burden and responsibility for our failure to confront directly the Iraqi dictator.

Does anyone in the Bush administration remember Madeleine Albright, Sandy Berger, and their minions spinning themselves dizzy trying to deny that Saddam Hussein had outwaited and outplayed Washington? It would be better to see the administration start explaining how we will live with Saddam and his nuclear weapons than to see senior Bush officials, in the manner of the Clintonites, fib to themselves and the public. In any case, in Middle Eastern eyes, the Butcher of Baghdad has checked, if not checkmated, the United States.

Only against this backdrop can we properly assess the threat bin Laden poses. The Saudi militant is unquestionably going to come at us again. If he can find a weak spot, which he probably can, he will target us most likely in the Third World, where his men can maneuver. Then the Bush administration will have to make a defining decision. Will President Bush continue the Clinton administration's preference for putting terrorist strikes into the FBI's investigative hands and, forensic evidence willing, into the courts, thereby avoiding the diplomatically messy question of retaliation? Will the administration forcefully complement the above with another barrage of cruise missiles aimed at rock huts on the thin hope of catching bin Laden and his lieutenants unawares?

Deputy secretary of state Richard Armitage recently warned that the United States would hold the Taliban responsible for future attacks by Al Qaeda. We can only hope that this doesn't mean filing some future court case in New York City or bouncing the rubble in makeshift camps in Afghanistan. The Taliban chieftain Mullah Omar ought to discover that dead Americans mean cruise missiles coming through his bedroom window and cluster bombs all over his frontline troops.

The Pentagon's alarms in the Middle East and the fecklessness of the administration's policy toward Saddam Hussein and Yasser Arafat, however, suggest a different chain of events. Odds are, America's position in the Middle East is going to get much worse. In the not too distant future, bin Laden may well rightfully proclaim that he, as much as Saddam Hussein, exposed America's writ and most terrifying principles—liberal, secular democracy—as finished in the Arab world. This would be an amazing accomplishment for a Saudi holy warrior, considering the forces arrayed against him. The Assassins achieved far less and were immortalized by friend and foe alike. ♦

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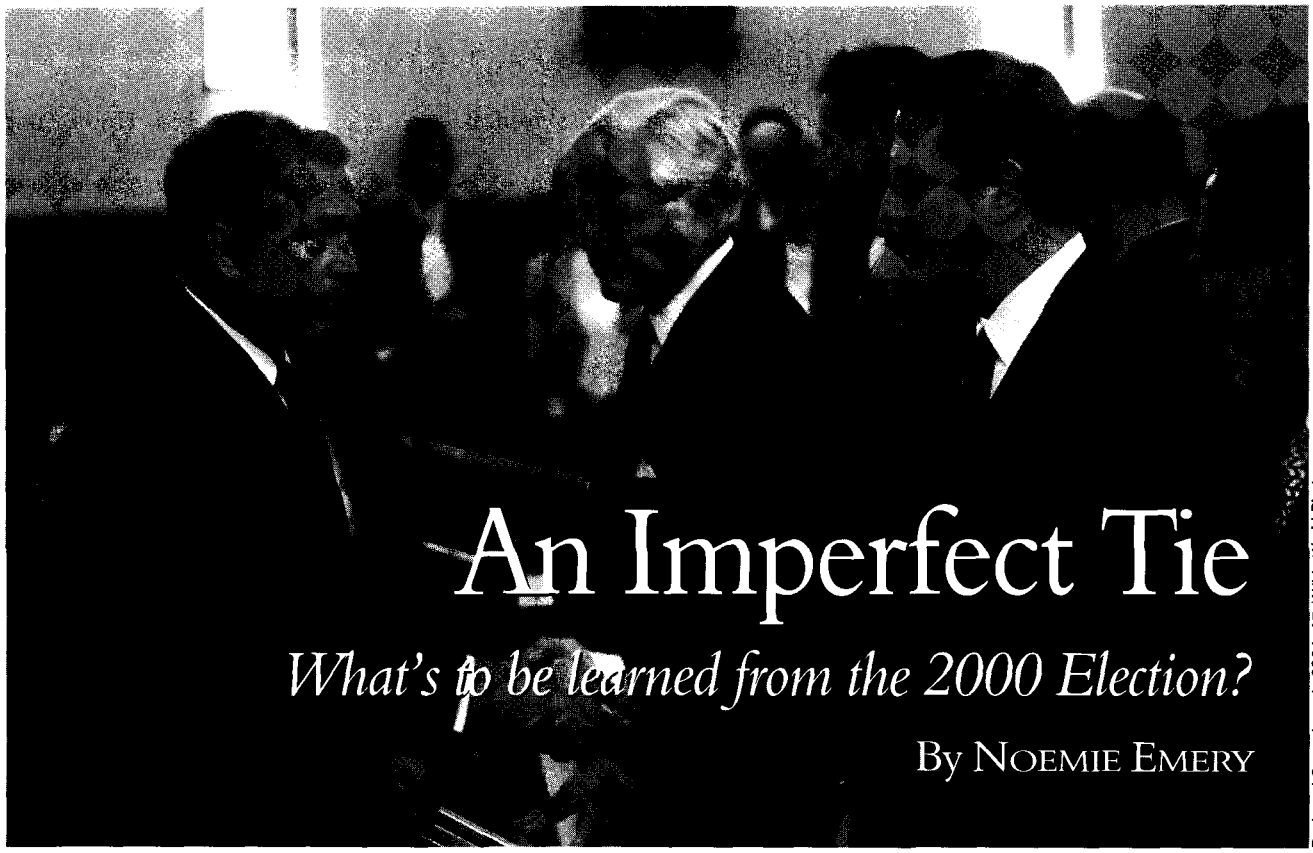

Bush and Gore, June 1, 2001. AP / Wide World Photos.

An Imperfect Tie

What's to be learned from the 2000 Election?

By Noemie Emery

Take an election—a tie in the Senate, a near tie in the House, a near tie in the popular vote, a near tie in the Electoral College. Three states too close to call days after the polls closed, other states decided with minuscule margins. Then, when it all comes down to the vote of one state, give this state a way of recounting that attempts to read not ballots but the intent of the voters, and you have the 2000 election: a perfect freak, an act of nature, a marvel, a brawl, and a mess.

Never has so much power rested on so few votes subject to so much dissension and squabbling. Not that it did not have its own eerie splendor. "Just as the Perfect Storm swept aside the structures man built to shield himself from the environment, so the Perfect Tie overwhelmed the institutions that were designed, in the words of the *Federalist Papers*, to prevent 'tumult and disorder,'" as James Ceaser and Andrew Busch put it in one of the torrent of recent books on the election.

These books fall neatly into three categories: the trivial, the enraged, and the serious. The trivial books—as suggested by such titles as Dana Milbank's *Smashmouth: Two Years in the Gutter with Al Gore and George Bush*—skim over the surface, ignoring matters like context and issues. Seeing the race as *Survivor* writ large, they focus on the political and legal lies, ploys, and chokeholds, marveling at how desperate, depraved, and low-down dirty two hapless, hopeless, spoiled-rotten, pathetic, clueless preppie twits can get when they run for president.

Like the paperback by the *Washington Post*'s Joel Achenbach, *It Looks Like a President, Only Smaller*, these books are reductive, framing the race as a battle of midgets, on whom a writer can only look down. Jake Tapper's *Down and Dirty: The Plot to Steal the Presidency* has some useful accounts on the legal tactics deployed by both road gangs, but he seems to suggest that this is all there was to it. Implicit in all these books in the trivial category is the notion that the writers, had they found themselves in the situation of the candidates, would have acted with utter grace and restraint.

The trivial books at least shower scorn on all parties. The enraged books do not. In *Reckless Disregard*, his quickie account of the legal arguments in *Bush* v. *Gore*, Harvard law professor Alan Dershowitz declares "the decision in the Florida election case may be ranked as the single most corrupt decision in Supreme Court history." In *The Betrayal of America*, Vincent Bugliosi concludes that the majority of Supreme Court justices "are criminals in every true sense of the word, and in a fair and just world belong behind prison bars as much as any American white collar criminal who ever lived."

Similarly, Roger Simon's *Divided We Stand* drips with loathing for George W. Bush, his supporters, Texas, conservatives, southerners, the Christian Right, and perhaps for Christians in general. Bill Sammon's *At Any Cost* is, in turn, a long wail of rage against the Democrats and Al Gore.

Gore, as it happens, has a great deal to answer for. He seemed willing to drag the whole country into a bottomless pit of litigation in which we might still be thrashing if the Supreme Court hadn't stopped him. He sued his own party's officials when they failed to do what he wanted. He threw out the ballots of absentee servicemen. He launched an attack upon the Florida

Noemie Emery is a contributing editor to The Weekly Standard.

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official Katherine Harris. This is the man who cried the poll-tested slogan, "Count every vote!" while trying to throw away thousands; who insisted scratches be counted as valid, while backing efforts to throw out clearly marked ballots on which third parties had made minor mistakes.

Gore had a reputation as a relentless and brutal campaigner, as well as a world-class truth-twister, and all of these unlovely facets were on display during the Florida aftervote. But was he truly the ice-cold monster of absolute malice that Sammon presents? Could it be true that he decided early on he had no chance of winning and carried on just to hurt Bush? Was everything he and his friends did in Florida beyond the pale of hardball conventional politics?

Sammon suggests that Gore did not lose a single vote to ballot confusion in Duval and Palm Beach counties, which seems unlikely. He implies that Bush lost as many as ten thousand votes in the Florida panhandle, between 7:52, when the networks announced Gore's victory in Florida, and 8:00, when the polls closed. He seems to think there was a network conspiracy to hurt Bush by calling early the states where Gore led. By the end of Sammon's *At Any Cost*, the sustained outrage has lessened the impact.

Still, at least Sammon's book tells a story, which is more than can be said for Roger Simon's *Divided We Stand: How Al Gore Beat George Bush and Lost the Presidency*. This is a book that will actually subtract from the sum total of your knowledge of politics—a disgrace to the author, the editor, and the house that has published it; arguably the worst book to appear about politics since the mixture of malice and cuteness that passed as Pat Schroeder's memoir.

Every one of Bill Sammon's blind spots is shared by Simon, but in reverse. Simon is irate at the networks' late night call for Bush of Florida, which crowned him as the winner, and made Gore's fight harder. But he says nothing of the first call, which probably cost Bush in the western states. He is outraged at the two decisions of the United States Supreme Court, but not at those of the Supreme Court of Florida, which had provoked them. You will find little here of debates or conventions, and nothing of issues or strategy. What you will find is that the book seems to exist mainly to allow Simon to sneak in goodies like these:

> Too much intelligence can be a drawback for a presidential candidate. . . . In that respect the Bush campaign is one step ahead: it doesn't have to dumb down its candidate for public consumption. . . .
>
> Gore is directly asked if he believes that Bush is "too dumb" to be president. His reaction: Gore convulsed in laughter while taking a drink of Diet Coke. He grabbed a towel to hold against his mouth, then, finally swallowing, insisted that the tape recorder be stopped for an off the record observation. . . .
>
> Bush gets through forty minutes of foreign policy questions without a major mistake . . . though he does goof up the number of men he is itching to execute in Texas. . . .
>
> Bush "wasn't looking that closely" at how Cheney had voted [after Cheney's voting record in the House had become controversial]. Why? The Rangers were on TV that day?

On page 178, Bill Clinton is wildly popular, his resilience a source of astonishment. "Bill Clinton had never . . . had such support, . . . and he had never been stronger because no president in modern times . . . had been in such close touch with the ethos, the rhythms, the feelings of his time." But somehow, without explanation, by page 195, this master of zeitgeist had managed to tick off so many of his people that he was proving a threat to his heir and vice president. "From the first day of campaigning to the last, Gore's polling showed the same thing: Clinton was a loser," Simon says.

Simon never explains Bush's electoral strategy or his well-detailed plans to reform the military, the education system, or social security. What he does in exchange is take us on small flights of fancy, little guided tours of Bush's thoughts. Thus, at Bob Jones University, "The students are staring at Bush open-mouthed. He has not mentioned Jesus Christ once, not once! What kind of presidential candidate is he? So one student stands up and asks, 'Are you a Christian? And tell us a little about your faith.'" To which, Bush answered, "Yes . . . and I've sought redemption"—all the while thinking, "There, that had to hold the little bastards," or so Simon projects.

But enough of that. The adult books about the election, written by serious people, are *The Perfect Tie*, by James W. Ceaser and Andrew E. Busch; and *Deadlock*, by David Von Drehle and the political staff of the *Washington Post*. A third entry is by CNN's Jeff Greenfield, a more personal story from someone who was actually on camera during the two calls for Florida and who uttered, on the first retraction, what became his book's title: *Oh, Waiter! One Order of Crow!*

Aiming at fairness, and all three gracefully written, these books are concerned with issues and history, and place the election in the context of its times. They regard the candidates as well-matched and serious; and the campaign as fought over meaningful issues. They note that this stalemate has gone back many years. They cite the misleading "mandates" of the 1992 and 1994 elections, and the failures on both sides to make breakthroughs. They examine the gridlock with which voters seem happy enough. They observe the failure of the winners of the three presidential elections since 1988 to break the 50 percent mark, even in times of prosperity; and the nearly absolute parity—between 47.9 and 49.2 percent—of the votes for both parties in the Senate and the House.

From these descriptions of generic deadlock, they go on to the specific things that caused the tie in the presidential campaign. Bush and Gore had résumés that were respectable, but not overwhelming; and strengths and weaknesses that were complementary and evenly matched. Bill Clinton, Gore's patron, was a curse and blessing. Gore led on specific issues; and Bush led on overall themes. The two themes that swing most elections also

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had come out even: "The country believed, at one and the same time, that they'd never had it so good," as Greenfield writes, "and that it was time for a change."

"The net effect of short-term forces split the non-partisan, or floating voters down the middle," say Busch and Ceaser. "The Gallup tracking poll showed the lead changing no less than nine times." Instead of breaking the stalemate, the campaign added to it, neither man showing the strengths—or the weaknesses—to attract or repel hordes of voters. And so it was closer, in more states, than any election in memory. And then the real fun began.

"Mr. Daley," one state official said to the man Al Gore chose to lead his attack on the Florida election results, "the recount procedures in Florida are designed to resolve contests in sheriffs' races.... They never contemplated anything the size of this."

Neither had anyone else. Both *A Perfect Tie* and *Deadlock* claim that Bush won the aftervote for the same reasons he eked out the election: superior executive and strategic abilities. Says *Deadlock*, "Bush was reluctant to revisit decisions. Gore... was constantly revising his options." Bush deployed his team well, according to specialty, and trusted their judgments. Gore second-guessed his troops and shuffled them endlessly, eventually using David Boies for just about everything, moving him from state court to county court to federal court without stopping.

From the start, Bush and his people knew the Supreme Court of Florida would try to give Gore the election and planned their appeal through the federal system. Gore, on the other hand, thought Florida election law was a local dispute and doubted the high court would even consider it. "This is about Florida law, not constitutional law," Gore told Laurence Tribe, the constitutional lawyer, as Gore foolishly replaced him prior to the second argument before the Supreme Court. Tribe did not believe him. And, of course, Tribe was right.

From the start, it was unhappily certain that nothing but a rough and jagged ending would occur. The margin of votes was so thin that even the *concept* of winning was never a certainty. The wide variations in methods of counting could lead the loser to claim that the counters had used the wrong standard. And then, as Jeff Greenfield points out, the elastic provisions of the Florida recount process ran head-on into the very fixed timeposts that governed presidential elections in federal law. Obeying one law meant disregarding the other. Greenfield muses, "There were plenty of cases (in Florida) where officials had been removed months after taking office.... Would a clerk from Florida circuit court show up at the Inaugural platform, armed with a subpoena? Would a team of Florida state troopers storm the... White House sometime in mid-March?"

It Looks Like a President, Only Smaller
Trailing Campaign 2000
by Joel Achenbach
Simon & Schuster, 176 pp., $12

The Betrayal of America
How the Supreme Court Undermined the Constitution and Chose Our President
by Vincent Bugliosi
Thunder's Mouth/Nation, 192 pp., $9

The Perfect Tie
The True Story of the 2000 Presidential Election
by James W. Ceaser and Andrew E. Busch
Rowman & Littlefield, 283 pp., $15.95

Supreme Injustice
How the High Court Hijacked Election 2000
by Alan M. Dershowitz
Oxford University Press, 288 pp., $25

Deadlock
The Inside Story of America's Closest Election
by The Political Staff of the *Washington Post*, edited by David von Drehle
Public Affairs, 256 pp., $23

Oh, Waiter! One Order of Crow!
Inside the Strangest Presidential Election Finish in American History
by Jeff Greenfield
Putnam, 224 pp., $24.95

Smashmouth
Two Years in the Gutter with Al Gore and George Bush
by Dana Milbank
Basic, 294 pp., $27.95

At Any Cost
How Al Gore Tried to Steal the Election
by Bill Sammon
Regnery, 294 pp., $27.95

Divided We Stand
How Al Gore Beat George Bush and Lost the Presidency
by Roger Simon
Times, 352 pp., $25

Down and Dirty
The Plot to Steal the Presidency
by Jake Tapper
Little, Brown, 352 pp., $24.95

The two camps took to the courts armed with entirely different views of what an election should be. Democrats insisted that standards be bent to their concepts of fairness. Republicans insisted that the standards were what defined fairness. "I could survive any recount," Bush told the *Washington Post*. But "I couldn't survive any re-vote, and they were re-voting.... It was political, and it was chaotic beyond description.... So long as the Florida Supreme Court was rewriting the law, and people were divining intent, we had a battle on our hands.... The problem was that we were dealing in a standardless world."

From the Republicans' point of view, the final assault upon standards and order took place in the December 8 ruling of the Florida Supreme Court that voided the certification of the secretary of state, arbitrarily altered the standing vote total, and ordered a statewide recount of all Florida undervotes, using no specified standards whatever. Some vote totals from Miami-Dade would be obtained by using the canvassing board's partial recount; others would be counted at the state capital by a new group of people. "We have just left the gravitational pull of the earth," thought Jeff Greenfield. "You know what, David? We just won this case," a Bush lawyer told the Gore team's top advocate. "It's so bad, it's good."

The court judgments that ended the battle were almost as close as the election: a 4-3 ruling in the Supreme Court of Florida, a 5-4 vote to void it in the Supreme Court of the United States, each with bitter dissents from minori-

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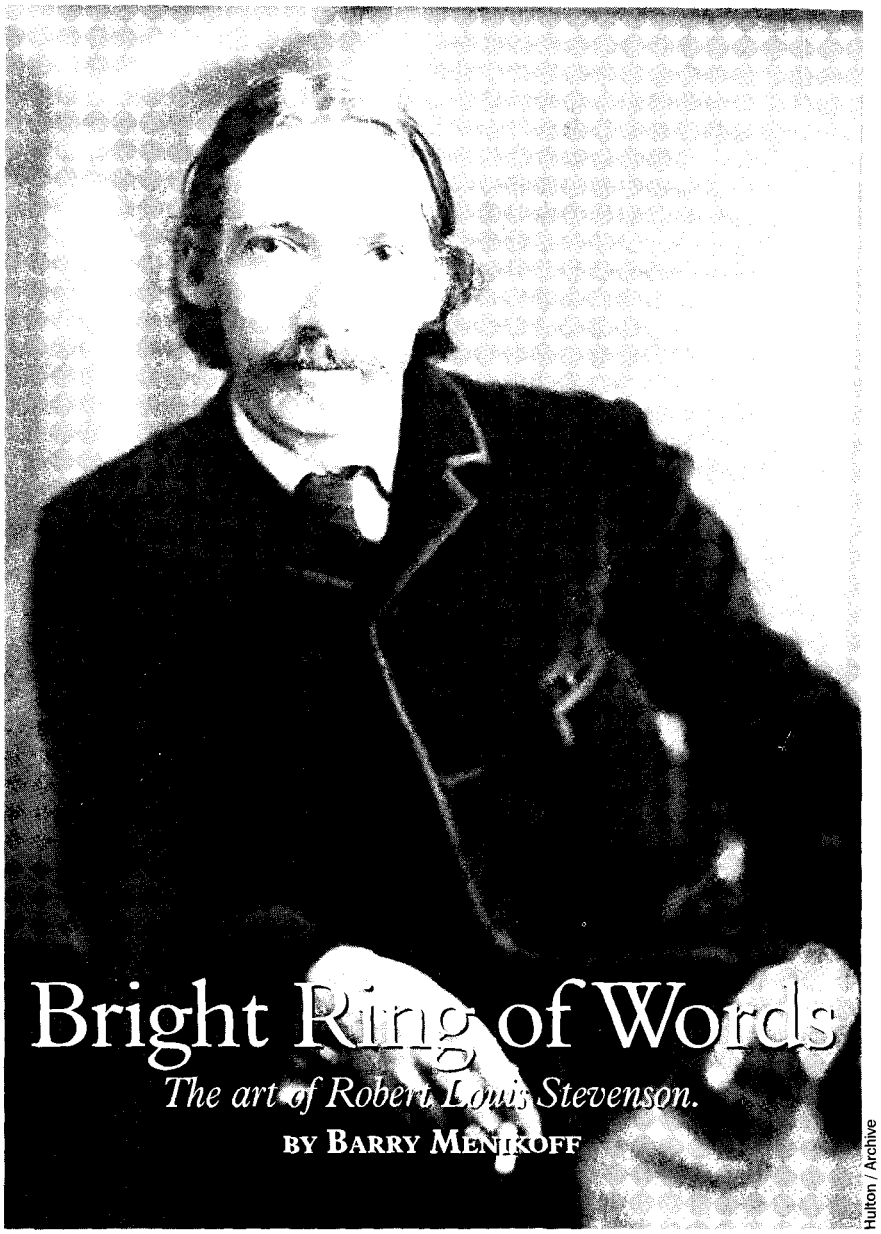
ty justices and blistering attacks from partisans whose favorite cause had been injured. What all the adult books on the election conclude is that the Florida court set the country on a path of great danger, and the Supreme Court of the United States had no choice but to check it.

Thus, Busch and Ceaser write, the justices on the Supreme Court "stepped in . . . not to undermine a political process, but to curb a judicial one." The Court's ruling—"badly written and badly argued"—was rushed and, at times, incoherent, but "a prudential decision must be judged by the effects in a specific context. . . . Would the consequences of not acting have been worse?" Jeff Greenfield concludes, "My own hunch is that George W. Bush would have ended up president . . . but only after a fight that would have put our political system to its severest test."

The problem is this: If you don't want the president "selected" by the highest court of the entire nation, how about one selected by the highest court of Florida? Or by the Florida legislature? Or by Jeb Bush, as governor of Florida, signing a paper to make his brother president? Or by Al Gore, as president of the Senate, voting to elect himself? At the time, these were the only possibilities.

"I would not be surprised," Greenfield writes, "if at least one of these [U.S. Supreme Court] justices looked down the road and concluded simply, 'Either we stop this now, or we are heading right for a train wreck. I just can't take that chance.'"

Now, half a year after it ended, this election, expected to decide the deadlock of years, has only extended and deepened the deadlock of American politics. Surveys by news organizations, expected to clear up the Florida muddle, have instead been caught in it. The nearly tied Senate broke, first to the Republicans, and then to the Democrats, restoring the situation, apparently dear to voters, of a White House and Senate held by different parties. People are still waiting to see the tie-breaker. When it will come, nobody knows. ♦



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Bright Ring of Words

The art of Robert Louis Stevenson.

BY BARRY MENIKOFF

Philip Callow's new biography, *Louis: A Life of Robert Louis Stevenson*, comes exactly one hundred years after the publication of Graham Balfour's *The Life of Robert Louis Stevenson*, the writer's first biography, authorized by his widow and penned by his young cousin.

Louis
A Life of Robert Louis Stevenson
by Philip Callow
Ivan R. Dee, 336 pp., $27.50

In the intervening years, the volumes on Stevenson's life by devoted followers, occasional scholars, and professional writers have formed nearly a genre unto themselves. Perhaps that's because he died just after his forty-fourth birthday, and biographers, like the gods, love those who die young. Or perhaps it's because every few years another publisher calculates a sure return on even a modest print run. In *Louis*, Callow has chosen to follow Stevenson's life through earlier biographies. Some of his models, like the biographies by Frank McLynn and Ian Bell, are controversial or merely fanciful, and the result is a new life that offers, in fact, nothing new.

That's unfortunate, for the better explanation of the nineteenth century's fascination with Stevenson is the fact that the man was, quite simply, spectacular. His sheer physical figure made an indelible impression on anyone who met him even casually, and a profound one on those who knew him well. That

Barry Menikoff is professor of English at the University of Hawaii and the editor of the original-text edition of Robert Louis Stevenson's Kidnapped.

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image has come down to us through painting and sculpture and photography in almost unparalleled abundance for a writer of his generation. There are the two famous Sargent portraits, one at the Taft Museum, which serves as the dust jacket for Callow's book, the other in the Whitney, which Stevenson himself described as making him look like a "weird, very pretty, large-eyed, chicken-boned, slightly contorted poet." There is an arresting sculpture by Saint-Gaudens, the writer propped up in bed, legs covered, supporting a manuscript, with a cigarette between his long, tapering fingers. And finally, there is the rich portfolio of black-and-white photographs taken in the South Seas. Stevenson may well be the most visually identifiable writer of the whole nineteenth century.

But he was not just a favorite model for figurative artists. Ordinary people, not to mention famous ones, constantly tried to capture him in pen portraits, and these images, too, are liberally scattered through his innumerable biographies. "He is between 30 and 40, fearfully thin, with long emaciated hands & the most curious face I ever saw," wrote the daughter of the painter William Richmond in 1886. "You would pick him out of any crowd, not for beauty oh no, but for general oddness & unsurmountable unconventionality in feature & gait & figure."

All the portraits, both the ones in painting and the ones in prose, sought to find in his physical features an expression of his striking personality and his dramatic life of emotion and adventure. Stevenson was born in Edinburgh in 1850, and his story begins with the struggle to escape an overly protective family and what he believed was a stultifying culture—a struggle that culminated in an affair with a married woman he met in a French art colony in 1876. If this seems a bit of a problem morally, Fanny Osbourne was at least living apart from her husband, and Stevenson, ever the passionate idealist, did fall in love with her at first sight, a condition he fervently believed in. In any event, Fanny, Stevenson, and his brilliantly erratic cousin, Bob, were all bohemians together. And in Paris who really cared?

But the plot took a decidedly original twist when Stevenson, against all advice, pursued his love to California, crossing the Atlantic in steerage and

Bettmann / CORBIS

Michael Nicholson / CORBIS

Robert Louis Stevenson

the continental United States by train. This act has few romantic equivalents, and no small bit of heroism, as Stevenson nearly lost his life in his travels. The two were married in San Francisco in 1880, and then retreated to an abandoned mining camp in Silverado. Stevenson, who had earlier turned his vagabond wanderings in France into literature with *Travels with a Donkey*, used his honeymoon to compose a marvelous pastiche of old California entitled *The Silverado Squatters*.

Another good effect of the marriage was reconciliation with his father, Thomas Stevenson, who welcomed him back home upon his return from the United States. Stevenson was determined to make his living by his pen, and in the summer of 1881, at Braemar in Scotland, he composed *Treasure Island*. Although it was not quite the bestseller suggested by the legend that it kept Gladstone up all night, it gave Stevenson a direction for making his fiction accessible to a broader audience than such work as, say, the short stories he had collected in *New Arabian Nights*.

By 1886 he was as popular as an author had ever been. That year saw the publication of both *Kidnapped* and *The Strange Case of Dr. Jekyll and Mr. Hyde*. In *Kidnapped*, his first novel of Scottish history, Stevenson created the shrewd and irresistible David Balfour, an orphan from the Lowlands who is seized and bound for slavery to America. David, a captive aboard ship, joins forces with the dauntless Jacobite rebel Alan Breck Stewart ("Am I no a bonny fighter!"), and their flight through the Highland heather, evading the British troops, is a chronicle of nail-biting adventures. It is a story of three different cultures, Highland, Lowland, and English, bound together by geography and marked by a history of enmity. *Kidnapped* lives on the road with David and Alan, but its deeper life exposes the broad and complex history of eighteenth-century Scotland.

In *Dr. Jekyll and Mr. Hyde*, the "shilling shocker" that became a text for church sermons and an eponym for split personality, Stevenson dramatized a subject that had fascinated him all his life: the idea that every man has within himself another self, and that the two selves exist in a state of tension or even conflict. It was an idea he had explored before in "Markheim," a short story of conscience and redemption told from the point of view of a murderer in dialogue with either the devil or his alter ego. But with the success of *Dr. Jekyll*

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and Mr. Hyde, he taught it to the entire world.

After his father's death in 1887, with his literary and financial success firmly grounded, he was free to pursue his life and his health wherever he chose. And he chose, first, America. Not only had he married an American and lived in the country before, but he was inspired by American authors, notably Walt Whitman and Nathaniel Hawthorne. Whitman showed Stevenson the prospect of an open road, free of fear, while Hawthorne reminded him of the history of human failure and bondage to the past. Poe, Melville, Holmes, Thoreau—all were read and absorbed by a man who embraced American culture as earlier he had the French.

Stevenson arrived in New York on September 1, 1887, and almost immediately traveled upstate to Saranac Lake, where Dr. Edward Trudeau had gained fame for his treatment of tubercular patients. It was here, in the midst of a brutal winter, that E.L. Burlingame, the *Scribner's* editor, visited the writer and arranged for him to contribute a series of essays to the New York publisher's magazine (including "The Lantern Bearers," "A Chapter on Dreams," and "A Christmas Sermon"). It was here, too, that Stevenson began writing *The Master of Ballantrae*, making use of the cold, clear mountain air for the novel's most memorable scenes. But Burlingame, who admired Stevenson immensely and championed his work, also saw the difficulty of dealing with an artist who was headstrong and often impractical with respect to business. As he said in a letter to Charles Scribner, dealing with Stevenson "would be as hard to do as to pick up a globe of quicksilver . . . & he can't be taught or cautioned. . . . It is with him as Dr. Trudeau said it was in making him take care of his health—'if he doesn't have his head he will fret like a nervous horse.'"

Saranac Lake was also where Stevenson met S.S. McClure, the entrepreneur who virtually invented newspaper syndication as a lucrative way to sell writing. McClure was the catalyst for Stevenson's final adventure. He offered the author $10,000 to write a series of letters while cruising the South Seas. Fanny, who went on ahead to Oakland, found a yacht for hire, and Stevenson wired her to take it. The story goes that when the owner of the boat, the *Casco*, met Stevenson, he did not believe such a shabby figure of a man could afford it. When he learned otherwise, the deal was struck.

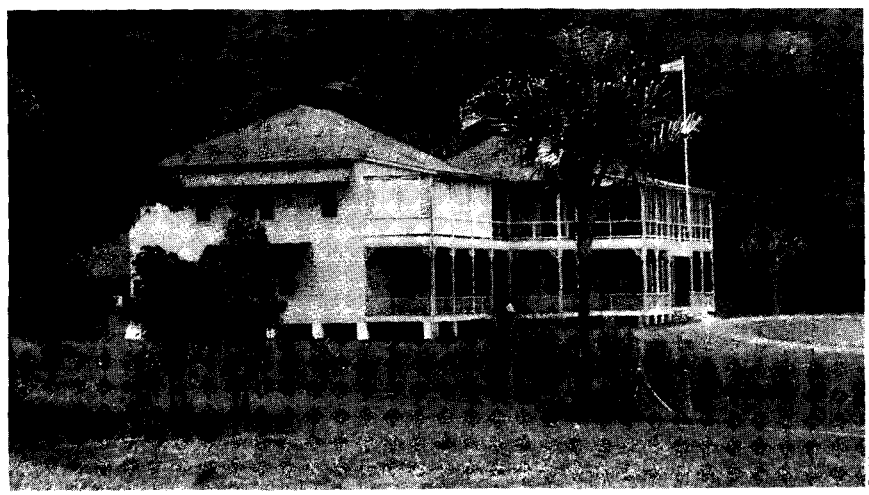
In midsummer 1888, Stevenson, with his family, sailed out of San Francisco Bay, never to return to America or to Europe, except in imagination. The Pacific opened up a new period in his life, when for the first time he felt healthy and completely unbound from the European civilization he increasingly viewed as nothing more than ruins. Stevenson worked prodigiously while living in the South Seas, using the colors and scents of the islands. "The Beach of Falesá" begins gorgeously:

> I saw that island first when it was neither night nor morning. The moon was to the west, setting but still broad and bright. To the east, and right amidships of the dawn, which was all pink, the daystar sparkled like a diamond. The land breeze blew in our faces and smelt strong of wild lime and vanilla: other things besides, but these were the most plain; and the chill of it set me sneezing. I should say I had been for years on a low island near the line, living for the most part solitary among natives. Here was a fresh experience; even the tongue would be quite strange to me; and the look of these woods and mountains, and the rare smell of them, renewed my blood.

Still, Stevenson's story is anything but a brochure for an island idyll. Wiltshire, a bigoted, alcoholic trader, has come to Falesá to trade in copra. Another trader ostensibly befriends him, tells him he needs a wife, and offers him a native girl, Uma, for his pleasure. A fake wedding is set up, replete with a marriage certificate that reads: "This is to certify that *Uma*, daughter of *Faavao* of Falesá island . . . is illegally married to *Mr John Wiltshire* for one night, and Mr John Wiltshire is at liberty to send her to hell next morning."

What turns the story around is Wiltshire's realization, on the bridal night, that he is in love with Uma and that she is indeed worthier than he. "And what with her dress—for all there was so little of it, and that native enough—what with her fine tapa and fine scents, and her red flowers and seeds that were quite as bright as jewels, only larger—it came over me she was a kind of a countess really, dressed to hear great singers at a concert, and no even mate for a poor trader like myself."

Violence is endemic in Stevenson's fiction, and the rest of the story is a taut contest between Wiltshire and his nemesis for survival on the island, the climax coming in a violent death struggle in the woods, with Wiltshire, enraged, stabbing his enemy repeatedly. Wiltshire remains on the island



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"Vailima," the house Stevenson built in Samoa.

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Stevenson's household: the residents of Vailima in 1892.

with his wife, remarried by a missionary, and all is well—except, the story concludes,

> I'm stuck here, I fancy; I don't like to leave the kids, you see; and there's no use talking—they're better here than what they would be in a white man's country. . . . But what bothers me is the girls. They're only half castes of course; I know that as well as you do, and there's nobody thinks less of half castes than I do; but they're mine, and about all I've got; I can't reconcile my mind to their taking up with kanakas, and I'd like to know where I'm to find them whites?

This is the kind of story, with its moral confusion and epistemological ambiguity, that enabled Jack London and Somerset Maugham to write about the Pacific in a modern way.

In the last six years of his life Stevenson wrote novels and stories and poems and histories at a dizzying pace, and letters, always letters. He was an indefatigable correspondent, and his letters, collected now in a superb edition by Ernest Mehew, are an endlessly rich ledger of personal and cultural commentary, by turns witty, sober, humorous, and reflective. The quality and quantity of work produced during these last years was so dramatic that Graham Greene declared that any estimation of Stevenson would have to begin with the "granite" of his Samoan period.

And all this time Stevenson was building a great home for his family in the islands, the expenses of which certainly spurred the frenetic literary activity. He needed to pay the bills, and the bills never stopped coming. Blessed with an incredibly fertile imagination, he had on the stocks an astonishing number of projects.

But then, near noon on December 3, 1894, after a morning's work on what promised to be his greatest novel, *Weir of Hermiston*, Stevenson was hit with a hemorrhage to the brain. He lay down but never got up. Carried to his grave at the top of Mount Vaea on a road cut by the Samoans who revered him as "Tusitala," writer of tales, he could not have had a more romantic or tragic ending. Cast out in the Pacific, as he himself had said, he bowed his head "before the romance of destiny."

And yet, Stevenson's legend survived to the detriment of Stevenson's achievement. Indeed, in the popular imagination his life was his achievement. This is hardly a new observation. Henry James made it in a letter to Graham Balfour shortly after Balfour's *Life* appeared: "You have made him—everything has made him—too personally celebrated for his literary legacy." It is difficult, perhaps impossible, to understand the veneration that Stevenson inspired in his contemporaries, but it was as a *writer* that they admired him.

When the news of Stevenson's death reached beyond Samoa, there was a kind of shock. Walter de la Mare, years later, vividly recalled the image of the "newspaper placards" near London Bridge carrying the news in "gigantic black letters on that orange ground: 'Death of R.L.S.'" English and American newspapers carried the story on their front pages, and the most important ones offered extensive retrospectives. Interestingly, the reviewers were dazzled not so much by the man's life as by the writer's achievement. There was universal agreement that Stevenson was already a "classic" of literature, the only question being where in the pantheon did he rank?

It was not just the daily reviewers that held him in the highest esteem. He was the crown jewel of the literary fraternity. Rudyard Kipling, traveling in the South Seas in the early 1890s, told a reporter in New Zealand that he was there solely "to meet Robert Louis Stevenson." Harold Frederic considered Stevenson "in a class quite by himself." Frederic reviewed the unfinished *Weir of Hermiston* and said, sim-

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Left: The last portrait of Stevenson. Above: His tomb on Mount Vaea.

ply, that it "would have been one of the great books of the language." For seasoned writers like Oscar Wilde and George Meredith, and aspiring ones like Arnold Bennett and John Galsworthy, Stevenson set the bar both for craftsmanship and authorship.

But somehow, within a few decades, certainly by the end of World War I, it was all swept away. No other writer experienced such a catastrophic decline in reputation as Stevenson. He disappeared as a serious artist and was reborn as an author for children (albeit, in sumptuously illustrated editions by N.C. Wyeth)—and then, since the 1960s, even those children's books have come under attack. The man who was thought a bohemian by his own generation was denounced as the spokesman for a Victorianism of Christian hegemony, white supremacy, male dominance, and European power.

Of course, even Stevenson's detractors are forced to recognize that he possessed one of the purest styles in English. But that, too, has been turned against him, the picture of Stevenson now one of an aesthete in a velvet coat, with no interest in anything other than the shape of a sentence.

Impressive collected editions with exotic sounding names—Vailima, Tusitala, South Seas—were produced with regularity in the first three decades of the twentieth century, and fine press editions of individual texts, even chapters from books, remain in progress. And this, as well, has worked against Stevenson. His books are commodity icons, wonderful for antiquarians and bibliophiles who can afford them, but of no interest whatever to modern thinkers.

Nothing could be more wrong. Stevenson was a lawyer, a linguist, a historian, and quite possibly the most brilliant theorist of art of his generation. He realized early on that mass reading, largely inspired by the enormous growth in newspapers, was changing the nature of writing. Readers expected to be entertained and delighted. Stevenson was the first modern to confront the dilemma of how to dress serious art in popular robes. *New Arabian Nights* invented the modern short story, but the texts were too sophisticated for the early 1880s.

So Stevenson created *Treasure Island*. But in simplifying the narrative line he never sacrificed the substance: greed, egoism, the lust for power, these were among the themes of *Treasure Island*, as they had been in the *New Arabian* stories "The Suicide Club" and "The Rajah's Diamond"—tales whose morbidity and taint of sexual corruption reminded readers of Edgar Allan Poe, and served up the first hints of the *fin de siècle*. (These stories also pay homage to the French police novel, which explains why Christopher Morley cited them years later as the inspiration for Arthur Conan Doyle.)

Stevenson thought himself primarily a psychologist, but the psychology was revealed through action. In "A Lodging for the Night," for example, Stevenson paints a picture of the medieval French poet François Villon wondering to himself what he is doing as he gropes through the skirts of a dead prostitute for any small coins he can find. The story not only gives a

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cameo portrait of the great French poet, but it makes medieval Paris feel contemporary, and in the process mixes murder with art, a lethal combination more common in our own day than a century ago. Stevenson's short fiction is one of the best-kept secrets of contemporary culture. In "The Bottle Imp," a story of witchery, Stevenson transferred the Faust story from Europe to the Pacific—converting it in the process into a beautiful parable of love and forgiveness. Told in the plainest yet most delicate English, and featuring the wonderfully resourceful and intelligent female Kokua, the story is illuminated throughout by the iridescent light of Hawaii.

Stevenson always set himself to explore the preoccupations and passions of his time and place. He wrote travel books, but "travel" does not come near describing *In the South Seas*, a profound study of the history of islands and the degradation of their cultures. The text, published posthumously, was radically cut from the original newspaper articles, but it is shimmering in its beauty and poignancy. Stevenson's commentary on the archipelagoes he visited was for years a standard reference for anthropologists.

In his last years, Stevenson found new and grittier subjects in the Pacific. Nothing prepared his friends in London for the graphic realism of *The Ebb-Tide*, for instance. But he deepened older ones as well. It was in the Pacific that he wrote *David Balfour*, the sequel to *Kidnapped*, and it exhibits a richer texture than *Kidnapped*, perhaps even an autumnal tone informed by the author's final years spent in self-described "exile" on a remote island in the Pacific.

Stevenson was a marvelous essayist—some readers believed he would be remembered primarily for his essays—and his later pieces are reflections on life and art and creativity by a deeply philosophical man who believed that failure was the condition of our life, and struggle our only option. At Vailima he would lead the household in prayers, and the prayer known as "Sunday" was delivered the day before his stroke: "Be patient still; suffer us awhile longer to endure and (if it may be) help us to do better. Bless to us our extraordinary mercies; if the day come when these must be taken, brace us to play the man under affliction."

This stoicism was captured in such scenes as the one in which David Balfour, afraid to jump from the rocks, is spurred on by Alan Breck Stewart—who tells him, aye, to be afraid of a thing and to do it, that makes the "prettiest" sort of a man. It is captured as well in his prose style, his passion for simplicity and elegance, for a lyricism that emerges not from an exuberance of imagery but from a studied and disciplined plainness. Stevenson's most famous poem is his "Requiem," its last lines carved on his tomb:

Under the wide and starry sky
Dig the grave and let me lie.
Glad did I live and gladly die,
And I laid me down with a will.

This be the verse you grave for me:
Here he lies where he longed to be,
Home is the sailor, home from sea,
And the hunter home from the hill.

But Stevenson may have caught his own purpose better when he wrote in *Songs of Travel*:

Bright is the ring of words
When the right man rings them,
Fair the fall of songs
When the singer sings them.
Still they are carolled and said—
On wings they are carried—
After the singer is dead
And the maker buried.

Robert Louis Stevenson brought language to bear, in all conceivable ways, on the human condition—to help us understand why we are here and why we suffer, and to offer balm to relieve the pain. It is past time for a rediscovery of the man as one of the great artists of the English language. ♦

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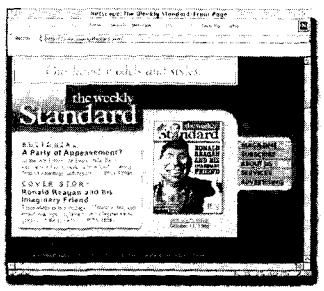

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The New Y

VOL. CL . . . . No. 51,815

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SUNDAY, JULY 15,

New York Times Produces Long Story

Thousands Will Die Trying to Get Through It

By DAVID BARSTOW and DON VAN NATTA JR.

Cancel Brunch. Quiet the kids. The New York Times hereby commandeers the next three hours of your Sunday morning. Following an exhaustive six-month investigation, having analyzed thousands of documents, The New York Times has produced an endless desert of portentous prose. You will read it until your eyes dry up into little raisins and your brain hardens into a peach pit. You will trek on, parched for a teeny drop of actual interest. The dry lifeless wind of our reporting will crackle your scalp. At lunch your kids will return to find your bleached bones hunched over the sidebars. You will do it. We are The New York Times.

Here's what happened. We all know that Bush stole the election. We read in Jake Tapper's book that Bush operatives tried to get some military officials to cast ballots after election day. We sent two reporters to check it out. It was going to make Watergate look like piffle, a mere Tony Lewis column. Only problem: Didn't happen. A dry hole.

As responsible journalists, we will begin paragraph 79 by noting that there was no evidence of fraud. But we didn't pore over six months of absentee ballots to come up with a single sentence. So we will surround that little kernel with the stunning revelation that Republican lawyers used one set of arguments to increase the vote in GOP counties and another set to suppress the vote in Democratic counties. There were two ways to discover this. Either sit on your La-Z-Boy during the Florida recount, lift the remote control and watch C-Span, or delve into months of documentation and conduct thousands of interviews. We chose the latter. You will suffer.

To continue, The New York Times has learned that of the 11,139 absentee ballots cast in Dade, Broward, Orange, Dupage and Jefferson Counties, the witness signature postmark designation should not have been applied to 837 of them, thereby producing a postdated vote discount of 983 votes, amounting to a package electoral registration surplus of 123 votes of which 67 were legally preregistered dimple specific according to the Florida State Citrus Association bylaws. If this isn't clear, don't worry. We will be reproducing this exact paragraph six more times, to make the article seem longer and more substantive.

Eenie-meenie-minie-moe, catch a tiger by the toe. Now is the time for all good men to come to the aid of their countrymen. Our editors tell us we have to fill out 6 full pages if we're to have any shot at a Pulitzer. Hello, E.J. Dionne. You're the only one still paying attention. These are the times that try men's souls. Rhubarb rhubarb rhubarb. When I was younger, so much younger than today, I never needed anybody's help in any way. But now those days are gone

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the weekly Standard
JULY 30, 2001

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Testing Is about Openness and Openness Works

Caroline M. Hoxby is a professor of economics, Harvard University; distinguished visiting fellow, Hoover Institution; and member, Hoover's Koret Task Force on K–12 Education.

In the past decade, forty-nine of the fifty states have adopted some form of statewide testing, which they are beginning to report in user-friendly "school report cards." Most of the report card programs have no stakes or low stakes, so what purpose do they serve? They create openness and information. They light up schools for the people who are supposed to make informed decisions about schools but who are too often kept in the dark: parents and legislators. The information is imperfect, certainly, but parents and policymakers armed with information can at least start a discussion about school improvement.

How much can one expect from a policy that just *informs,* with few stakes? I initially thought that one could expect only negligible results. It turns out that I was wrong. The states that started their testing programs at the beginning of the last decade did not break achievement records, but they did improve achievement at a significantly faster rate than states that only began testing in the past couple of years.

One can show this with simple calculations based on the National Assessment of Educational Progress (NAEP)—the only nationally uniform test that is administered to large representative samples of students in each state. State NAEP testing, which began in 1990, is *designed* to help states track their achievement over time. No one "teaches to" the NAEP test because only a sample of students take it and no individual school's NAEP scores get reported.

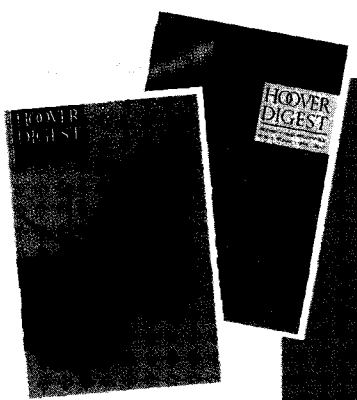
I recorded the first year in which each state began its report card program. (I did not count a state if it conducted tests but kept parents in the dark about school and district results.) States with early school report card programs include Texas, Washington, Kentucky, Maryland, Michigan, Connecticut, and Wisconsin. States that got on the report card bandwagon only lately include Iowa, Nebraska, Utah, Virginia, and South Carolina.

I looked to see whether states experienced growth in NAEP scores after they began report card systems (compared to states that had not yet begun such systems). I found that nine-year-olds' reading scores improved 0.26 points faster each year after testing began. Thirteen-year-olds' math scores improved 0.28 points faster each year after testing began. (Full results are available at www.economics.harvard.edu.) These gains are not tremendous, but they are statistically significant and do add up over a decade. **At the end of ten years, the nine-year-olds' reading scores would be 2.6 points higher and the thirteen-year-olds' math scores would be 2.8 points higher.**

Statewide standardized tests and school report cards may be unpleasant for ineffectual educators, but they should not be controversial with parents or policymakers who want to see higher achievement. Schools conduct themselves better when their constituents are informed.

— Caroline M. Hoxby

Paid for by the Hoover Institution, Stanford University.



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